

ASSESSING A CULTURE OF POWER: THE
CASE OF JOHN SWALLOW, UTAH
ATTORNEY GENERAL

by

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ABSTRACT

This qualitative-interpretive case study explores the topic of administrative ethics. It centers on allegations of corruption concerning Utah's former Attorney General, John Swallow, who resigned from office in December 2013. This study addresses how key components of a culture of power contribute to public corruption. Semistructured interviews and archival research comprise the methods utilized. Administrative ethics approaches—the public interest approach, the social equity approach, the virtue approach, and the relational approach—serve as lenses to further assess the case study findings. The first finding is that the placing of high priority on material gains and status is a likely source of public corruption in elective office. The second finding is that the power inherent in the campaign finance system as well as the position of leadership contributes to corruption. The last finding is that relationships encourage trust and loyalty between the public official and his/her social network, often distorting judgment and leading to corruption. These findings indicate that a particular ideology enabled, and compensated for, a lack of commitment to virtuous behavior in office. This study contributes to the literature by providing a fuller understanding of the nature of public corruption, particularly in a one-party dominant political environment. Furthermore, it emphasizes the importance of culture and its role in contributing to corruption.

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CHAPTER 1

INTRODUCTION

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on government; but experience has taught mankind the importance of auxiliary precautions. (Jay, Goldman, Hamilton, & Madison, 2008, p. 257)

This dissertation addresses the topic of administrative ethics, focusing on abuses of power by public officials. My qualitative study utilizes a case study, primarily focused on former Utah Attorney General, John Swallow,¹ who resigned from office in December 2013 amidst allegations of corruption. I assess the findings of the case using four different theories of administrative ethics—public interest, social equity, virtue, and relational.

My research question is the following: *What key components of a “culture of power” contribute to corrupt behavior* (Barton & Yang, 2000, p. 873)? This dissertation addresses a culture of power in reference to partisanship and ideology. Utah is a “red

¹ Neither John Swallow, nor his Attorney General predecessor, Mark Shurtleff, has begun their corruption trial in a court of law. However, both men were arrested on July 15, 2014 with a combined 23 criminal charges, including receiving or soliciting bribes, accepting gifts, tampering with witnesses and evidence, and participating in a pattern of unlawful conduct (Gehrke, 2014c).

state” whose Congressional delegation is entirely Republican. The state executive is Republican, as are a strong majority of the state House of Representatives and Senate (*Ballotpedia*, n.d.; *Govtrack*, n.d.; *Utah State*, n.d.b). Furthermore, many government leaders belong to the Church of Jesus Christ of Latter Day Saints (more commonly referred to as the LDS Church), which, historically, has been influential in the state’s public affairs (Danforth, 1980; Davidson, 2012; Davidson & Canham, 2015).

The research question is significant because it draws attention beyond just the public official to include the corrupting influences of the social environment (Pardo, 2004; Roman, 2012). Furthermore, it enhances understanding of the actual behavior of public officials (Frederickson & Walling, 2001). In the end, I argue that cultural relations, such as membership in the Republican Party and the LDS Church, enabled the alleged corrupt behavior of John Swallow and Mark Shurtleff. In particular, these influences compensated for their lack of virtuous behavior in office. In other words, the religious and political status of both men allowed them to justify their behavior as public servants in the community.

Collecting and analyzing public documents and conducting interviews comprised the methods of this qualitative-interpretive dissertation. A substantial source of data came from the Report of the Utah House of Representatives Special Investigative Committee made public in March 2014. This report provided the core facts of the case. Interviews with members of the community, in addition to some of my own personal experience, provided additional, supplementary data. In particular, these sources generated important, alternative insights to the case.

Chapter-by-Chapter Synopsis

This chapter proceeds by briefly discussing the importance of the research topic, the methodological approach used, and by providing background on key terms. It then provides an overview of the Swallow case, a brief literature review, and an overview of the theoretical approaches. Chapter 2 discusses the methodology utilized. Chapter 3 presents an in-depth description of the Swallow case and then provides evidence of a culture of power at play. Chapter 4 presents an analysis of the findings, or propositions, of the case. It then analyzes the case through the theoretical approaches, ultimately proposing potential recommendations to address corruption. Finally, Chapter 5 concludes by reviewing substantive contributions and themes of the analysis and then proceeds to make recommendations to this particular case.

Why Does This Research Topic Matter?

Corrupt behavior by public officials poses a threat to the democratic notions of the rule of law. Moreover, when a public official is engaged in corrupt practices, the democratic ideal that all citizens are equal is weakened (Shafritz, Russell, & Borick, 2011). Such behavior thus violates the contract between citizens and public officials. It further risks alienating citizens from their government and breeding cynicism and lack of trust among the populace, thus reducing support for the democratic processes of government (Holbrook & Meier, 1993; Shafritz et al., 2011). Even allegations of corruption may jeopardize the health of the polity. In short, attention to ethical conduct in government is too important to ignore.

Methodological Position

In order to reduce corruption, there needs to be greater understanding of the nature of corrupt behavior in government. Thus, more research of actual corruption cases is necessary to understand the dynamics present within single cases. Case studies generate rich details concerning the culture and organization in which public officials work. They also recognize context (De Graaf, 2007). Quantitative studies are merely a piece of the puzzle. While certain quantitative studies, such as Holbrook and Meyer (1993), link cultural and political variables to corruption, they have a tendency to draw attention away from the corrupt practices and the corrupt agent. They ignore the characteristics and details of varying contexts in corruption. They also tend to ignore the relational dimensions of corruption, which involves more than just legal or institutional grounds for corruption (De Graaf & Huberts, 2008).

In contrast, qualitative, case studies allow the researcher to study the process through which public officials become corrupt (De Graaf & Huberts, 2008). Furthermore, qualitative case studies are often better able to describe how the larger socioeconomic context shapes the corrupt agent and/or institutional practices. Too often, previous research has ignored the link of the larger context to the specific event of corruption (Rudel & Xin, 2004). Chapter 2 discusses the details of the methodology employed here.

Defining Ethics and Other Key Terms

Ethics is a branch of philosophy. More specifically, it is moral philosophy or philosophical thinking about morality, moral problems, and moral judgments (Cooper,

2012; Frankena, 1973). Morality assumes some accepted modes of behavior that derive from a religious tradition, a culture, a social class, a community, or a family. Ethics involves the examination and analysis of the logic, values, beliefs, and principles that justify morality in its various forms (Cooper, 2012). Thus, the study of ethics aims to give a systematic account of our judgments about conduct, as far as these are right or wrong, good or bad (Dewey & James, 1936). To provide some perspective, the policy making process is often concerned with whether an action or policy serves the interests of some particular individual, group, or nation. However, ethics asks whether an action or policy is acceptable by impartial actors or parties not involved in the immediate (Gutmann & Thompson, 1984).

As distinct from both meta-ethics and descriptive ethics, normative ethics deal with questions of what to do and how to act (Duval & Neiburg, 1999). This dissertation is an exercise in normative ethics—and deals in part with rules and moral expectations that define professional conduct (Bruce, 2001). Applied ethics is the branch of normative ethics that deals with questions of professional ethics in various fields (Duval & Neiburg, 1999). This dissertation focuses on the applied field of administrative ethics.

Administrative refers to those persons in positions of authority who carry on the business of government at the federal, state, or local level. Elected or appointed, they range from street-level bureaucrats to top-level executives (Bruce, 2001).

Although the literature discussed throughout this chapter addresses ethical behavior in general, the Swallow case centers on alleged corrupt practices. Certain scholars define corruption as illegal behavior (Frederickson, 1993; Holbrook & Meier, 1993). Others define it simply as the use of public office for private gain (Rose-

Ackerman, 1999). Bowman and West (2015) define corruption as “the abuse of position or power—a violation of public trust—often for personal gain by an individual or institution in the public or private sector” (p. 169). Thus, for the purposes of this dissertation, corruption encompasses both legal and illegal uses of discretion by individual public officials that betray public obligations for personal reasons.

The John Swallow Case

Just days after John Swallow became Attorney General (AG) in January 2013, allegations of improper, and potentially illegal, conduct surfaced in the press. These stemmed from his relationship with a Utah businessperson, Jeremy Johnson, who was under indictment by the federal government. On July 3, 2013, the Utah House of Representatives established a Special Investigative Committee to investigate and report on allegations of corruption by Swallow. On November 21, 2013, Swallow announced his resignation as AG after serving for just under a year (Utah House of Representatives, 2014). On July 15, 2014, authorities arrested Swallow following criminal investigations by the FBI, state investigators, and District Attorney Offices of Salt Lake and Davis Counties. On the same day, authorities arrested Mark Shurtleff, Swallow’s predecessor as Attorney General, for similar charges (see the specific charges under footnote 1 on page 1 above).

The Utah House’s Investigative report (the Report) found that Swallow compromised the principles and integrity of the Office of Attorney General (OAG) to benefit himself and his supporters. According to the investigation, he established relationships with individuals and Utah-based industries that resulted in a pattern of

benefits, including campaign contributions, political favors, and cash and other benefits. The Report alleged that Swallow used these relationships to benefit himself personally, professionally, and politically. The investigation ultimately found instances in which the exchange of benefits with individuals or industries undermined the mission of the OAG to uphold the law and protect the public (UHR, 2014).

The Report found that Swallow granted Jeremy Johnson tremendous access to the OAG that was not available to Utah citizens generally. He improperly conferred benefits to Mr. Johnson and his business interests. Johnson, in turn, shared benefits of his luxurious lifestyle with Swallow. Secondly, it found that Swallow promised his friend and patron, Richard Rawle that, as Attorney General, he would be favorable to the payday lending industry. Rawle then helped Swallow solicit hidden campaign contributions from the payday lending industry itself. Third, it found that Swallow compromised the position of the OAG in a pending wrongful mortgage foreclosure lawsuit that he helped make go away. By doing so, he allegedly compromised the interests of thousands of Utah homeowners who would have benefitted had the OAG continued to pursue the case. Finally, the Commission concluded that John Swallow intentionally fabricated and eliminated evidence as a means of avoiding any future investigation into his conduct (UHR, 2014).

While corrupt behavior in government may occur anywhere, a one-party-dominant environment, where less vigorous checks and balances exist, may especially foster such misconduct. One-party-dominant states control the governor's office and have majorities in both legislative chambers (Davey, 2012). As mentioned in the introduction, the Republican Party heavily influences the state of Utah. In particular, the

New York Times described Utah as a state “with a cozy political establishment, where business holds great sway and there are no limits on campaign donations” (Confessore, 2014, para. 2). Furthermore, according to the recent State Integrity Investigation project, conservative ideological values heavily influence governance in Utah (Campbell, 2015). Such an ideology is relevant to this case because it constitutes a strong “set of beliefs about the proper order of society and how it can be achieved” (see Jost, Federico, & Napier, 2009, p. 309).

The Problematic Nature of Authority, Culture, and Power

The following sections provide ethical context to behavioral influences that are likely present in a one-party-dominant environment. In order to understand the nature of corruption in this case, the following literature review centers around the contextual influences of authoritative expertise, culture, and power. These three influences may simultaneously affect ethical conduct, being transmittable through the social and institutional environments. I then formulate and briefly discuss the central research question of this study. In the following section, I introduce the theoretical approaches.

Ethical Challenges of Authority

Throughout much of the 20th century, scholars’ emphasized bureaucratic structure for its emphasis on unity of command as a chief source of efficiency in administration (Weber, 1946; Wilson, 1887). Such structure demands discipline and specialization from workers, but it may cause them to focus too much on efficiency and utility at the expense of individual rights (Morgan et al., 2008). Many point to Nazi Germany as an example of

a bureaucratic government that diligently sought efficiency through a technical-rational approach to governance. However, the Nazis were also infamous for grossly violating dignity and rights (Adams & Balfour, 1998; Scott, 1998).

A frequently cited example of violating rights through following orders is the experiments that Stanley Milgram conducted at Yale in the 1960s. Milgram created a basic organizational structure in a scientific laboratory setting that induced obedience from very large numbers of people—even to the point of being willing to administer powerful and dangerous electrical shocks to other human beings. The majority of the subjects followed orders, even while protesting that they were imposing horrific shocks on other participants in the experiment. Milgram identified the change that participants experienced as they went from autonomous individuals to willing participants of the experimenter as an agentic shift. This agentic shift induced individuals to abandon all responsibility for their actions (Milgram, 1974). Moreover, in such environments, it is common to discourage ethical decision making perceived as intuitive or moral in favor of rational-instrumental criteria (Zhong, 2011). Such institutional environments may suppress or punish administrative judgments that do not adhere to the utilitarian norms of the institution (Fox & Miller, 1995; Thompson, 1985).

Some institutional environments not only fail to encourage ethical action but also create significant impediments for people to do the right thing (Cooper, 2004). Examples may be found in particular national security agencies charged with ensuring that the United States is safe from dangerous threats. The nature of the mission of these agencies can make it extremely difficult for a potential whistleblower to use their discretion without the stigma of being a potential traitor. It also makes it difficult for Congress to

provide proper checks and balances without the perceived risk of jeopardizing the safety of the United States (Johnson, 2004). Members of Congress may focus less on proper checks and balances than on the praise that follows from approving programs and policies that aim to protect the country. Thus, institutional context and environment have much to do with shaping an ethical climate that is conducive to unethical exercise of power. That certainly came into play in the case at hand.

The climate of the Utah OAG's office enabled Swallow and Shurtleff to wield power in a corrupt manner. The dismissal of the wrongful mortgage lawsuit exemplified such abuse of power, which compromised the rights of countless Utahans. Although evidence shows that Shurtleff terminated the lawsuit to protect certain indiscretions of his subordinate, John Swallow, he publicly cited a lack of resources as the main reason behind the dismissal. Because of Shurtleff's authority, no amount of disagreement by the staff attorneys of the OAG could reverse that decision (UHR, 2014, pp. 117-119). Furthermore, there are broader cultural values in play here that strongly embrace deference to authority and likely contributed to Swallow's and Shurtleff's pattern of abuses.

Ethical Challenges of Culture

For the purposes of this study, culture is the pattern of development reflected in a society's system of knowledge, ideology, values, laws, and day-to-day rituals (Morgan, 1986). This concept of culture can be applied to the larger political environment or to within an organization (Shafritz et al., 2011). Organizational theorists have written extensively on culture within organizations since the 1970s. They have theorized about

how shared values, beliefs, assumptions, perceptions, norms, artifacts, and patterns of belief in organizations affect public decisions and actions (Ott, 1989).

Culture is relevant to administrative ethics by affecting accountability. It may produce an environment in which accountability to rules ceases to function, thus contributing to abuse of authority and unjust outcomes. For example, organizational theorists often point to the Challenger shuttle explosion of 1986. Studies of the disaster show that administrative culture contributed to it by normalizing the risk of malfunctioning O Rings. Engineers involved with NASA identified the O Rings of the shuttle as risks in previous years (Vaughan, 1996).

On the eve of the launch, a group of engineers did not favor launching the shuttle because of unusually cold temperatures in Florida—these would likely cause the O Rings to malfunction. However, throughout the previous 9 years, NASA personnel identified and accepted risk concerning the O Rings. Thus, redefining the evidence that deviated from the acceptable standard actually *became* the standard. In other words, the O Rings risk was normalized and taken for granted. Such decisions became part of the institution, remembered, and passed on as the rules, rituals, and values of the agency (Vaughan, 1996; Werner, 1983). Although numerous investigations point to wrongdoing by mid-level managers in NASA, Vaughan argues that NASA employees merely acted in accordance with cultural norms (1996).

Cultural influences may also alter or affect the type of discretion that administrators use in adhering to rules. Lipsky (2010) makes the argument that street-level bureaucrats (such as teachers, law enforcement personnel, and social workers) inevitably use discretion in determining the fate of clients. Charged with the task of

assisting desperate clients, these bureaucrats work in environments' characterized by heavy workloads, dwindling resources, and ambiguous policies. According to Lipsky, administrator discretion is inevitable because of ambiguous policies. However, he is more concerned that administrators use their discretion to make ethical decisions.

However, the culture within these environments can create asymmetries of power, often leading to unethical outcomes. In order to survive and manage their tasks, bureaucrats often ration services, determining which clients receive services, when they receive them, and how much they receive. Sometimes they may judge powerless clients according to their own perceptions of social and economic justice. Thus, they rely on their own biases to determine a client's worthiness of help and assistance (Lipsky, 2010).

Culture may not just emerge in response to a particular organization or administrative environment—authoritative forces may direct it to the larger society through ideas or ideologies. This argument is applicable to some of the examples discussed in the previous section on expertise. Gramsci argued that state power manifests itself through the enforcement of hegemony over the subordinate classes. He defined hegemony as the ideological predominance of bourgeoisie values and norms (Carnoy, 1984). Others see the power of ideas as influencing institution building and political change, or the lack thereof (Blyth, 2002).

The 2007-2008 financial collapse exemplifies such influence. The collapse resulted largely from dismantling regulations and gutting regulatory agencies. Resistance to regulatory efforts was justified by government and business elites who called for alternatives to “oppressive” agency regulation. The powerful influences of the free market ideology, with a lack of transparency, ultimately led to the collapse of the system

and a collapse of public trust. In order to correct for such dangerous abuse of power, institutions that are more robust are necessary. Such institutions must demand accountability of, and provide safeguards against, powerful interests touting misguided ideas, as well as avoiding the dangers of cultural capture (Green, 2012).

Not only did Swallow and Shurtleff's leadership create a specific culture within the OAG, but the two men also participated in a "pay-to-play" culture that extended beyond the confines of their own office (R.A. Donaldson, interview, April 9, 2015; UHR, 2014, p. 4). In this case, shared ideological values contributed to a culture that did not adhere to rules or proper protocol and distorted the proper use of political discretion by the attorneys general (UHR, 2014, pp. 54-55, 58, 118). Ultimately, I argue that such ideological values stemmed in part from joint influences of the Republican Party and the LDS Church.

The cultural lens does not always acknowledge power. For example, institutional leaders often seek to reinforce good cultures versus bad cultures, encouraging managers to engage in ideological control in order to produce the "right" culture (Morgan, 1986). For this reason, a discussion of the role of culture in ethics is not complete until power is also considered. The following section further explores the role of power as a challenge to ethical conduct.

Ethical Challenges of Power

This study analyzes power from a public administration theoretical perspective. Organization theories that address power and politics find that the specialization and division of labor inherent in administration creates independent units and coalitions

(Cyert & March, 1963; Long, 1949). These complex systems of groups and individuals have various beliefs, preferences, and perspectives. They often compete for scarce resources that lead to conflicts and battles over power (Mintzberg, 1983; Thompson, 1967).

In simple terms, power is the ability to make things happen. Some define it more strongly as the ability to make one's will prevail and to attain one's goal. However, power is not necessarily given—it is context and relationship specific (Pfeffer, 1981). Power is present in positions of authority, information and expertise, control of rewards, coercive situations, alliances and networks, access and control of agendas, control of meaning and symbols, and personal attributes (Bolman & Deal, 1997, p. 165).

Thompson (1980) found that public power constrains officials to act in ways that may be wrong in private life. Pitkin acknowledged that many empirical studies probe voter ignorance or apathy, but say very little as to the duplicity or weakness of elected representatives (Steintrager, 1969). Because the public often directs little scrutiny to the effectiveness of elected officials, abuses of power may occur. In order to improve conduct, Thompson found that citizens and other officials could reinforce norms of responsibility with sanctions—such as public criticism, dismissal from office, or exclusion from public office in the future (Thompson, 1980).

Accountability is even more crucial where inequality is at issue. When accountability holders are not able to monitor those in power, the power holders have less incentive to report to accountability holders regarding their compliance with standards (Rubenstein, 2007). This dilemma constitutes a principal-agent problem, where the accountability holder (principal) must devise mechanisms to get the power holder (agent)

to behave according to the former's interest (Rosen, 2002). Rubenstein saw that a third-party institution is often the best option to provide information regarding public officials' compliance with standards under conditions of inequality (Rubenstein, 2007).

The rank and order nature of bureaucratic rules and procedures creates a propensity for abuse of power under conditions of inequality. One infamous example is Zimbardo's simulated prison experiment. With only the briefest of explanations of the roles, Zimbardo assigned roles of either prison guard or prisoner to college students. The guards' treatment of the inmates became so inhumane and abusive that the inmates experienced emotional breakdowns, turned on each other, and aggressively lashed out against the guards. Because of these conditions, the experiment had to terminate after just 6 days instead of running the allotted 2 weeks (Banks, Haney, & Zimbardo, 1973). The results of the experiment showed the propensity of laypersons to allow organizational roles and norms to shape their behavior and alter their discretion (Cooper, 2004). Such behavior is not unlike the ethical challenges of expertise and culture discussed in the previous sections.

Many critical theorists would argue that setting up a simulated prison experiment is unnecessary to shed light on the power imbalances inherent to institutions. Rather, they see power as distributed through mechanisms of control sanctioned by the state. Power relations are diffused, subtle mechanisms and techniques that subjugate individuals as well as groups through the production of knowledge. The production of knowledge then establishes rules of truth. Power controls the diffusion of knowledge by revealing and obscuring truth and knowledge at all levels of society. Thus, the individual becomes a subject of power in society by means of education systems, political systems,

and even democratic norms because these shape the formation and accumulation of knowledge (Foucault, 1980; 1982).

Joan Acker described certain organizations as designed and, thus, “gendered” under the assumption of a male perspective. Acker found that the male influence underpins the rational technical systems that organize work tasks and perpetuate control processes. As a result, class and gender relations are further entrenched, keeping women at a disadvantage (Acker, 1990). Furthermore, from a race relations standpoint, McIntosh (1988) suggested that White power and privilege act as powerful but unrecognized influences within organizations. Thus, critical theorists have found that the institutional arrangements of bureaucracy neutralize individual power, making political activity unavailable and resistance futile (Ferguson, 1984).

The powerful leadership positions held by Swallow and Shurtleff in the OAG enabled allegedly corrupt and unjust practices to occur in the office (UHR, 2014, p. 3). However, the more significant influences of power may have come from the larger environment. The influence of wealth—as seen through affluent friends and associates such as Jeremy Johnson and Richard Rawle—and lax state campaign finance laws contributed to the allegations of corruption (J.T. Katsopolis, interview, March 5, 2015; UHR, 2014, pp. 49, 62-63). Furthermore, Swallow knew that his political status as a Republican in Utah would virtually ensure an election victory in 2012 (*Third Judicial*, 2013b, pp. 206, 209). Ultimately, I argue that these influences affected the behavior of Swallow and Shurtleff and made them more responsive to private, moneyed interests than to the public interest (UHR, 2014, pp. 69-70, 88).

Research Question

Authority, culture, and power are formidable challenges to ethical conduct. These contextual influences can foster injustices through institutional and social environments that do not serve the public interest. Although many factors may be at play, the key seems to be the manner in which institutions facilitate the dynamics of culture and power. Power may be the most critical challenge to ethical conduct. Power not only subjugates through expertise and authoritative structures but also co-opts discretion by fostering questionable political cultures and ideas (Blyth, 2002; Carnoy, 1984).

Lisa Delpit (1988) combined the terms culture and power in her research to form the phrase “culture of power.” According to Delpit’s research, “a culture of power represents a set of values, beliefs, ways of acting and being that for sociopolitical reasons, unfairly and unevenly elevate groups of people—mostly white, upper and middle class, male and heterosexual—to positions where they have more control over money, people, and societal values than their non-culture-of- power peers” (Barton & Yang, 2000, p. 873). Although defined in the context of the educational system, cultures of power are applicable to nearly every institution in the United States (Barton & Yang, 2000). In applying this idea to ethical governance, my research question, thus, asks *what key components of a culture of power contribute to corrupt behavior?*

My research question focuses on key components because a culture of power is not the same for each institutional and social environment. A focus on key components better captures the dynamics of a culture of power instead of treating a culture of power as one monolithic, yet static, phenomenon (De Graaf, 2007). Thus, identifying and

coming to understand the factors that shape the corruption process of a public official help to illuminate the nature of corruption and potential solutions to reduce it. The research question is further significant because it appropriately places emphasis on the social environment, rather than reducing corruption to simply a problem of dishonest individuals or “rotten apples” (Haller & Shore, 2005, p. 2; Roman, 2012, 2014). Ultimately, the research question will contribute to the literature by identifying the key components that contributed to allegations of corruption in a high-income country, set in a one-party-dominant environment.

The Purpose of Using Theoretical Approaches

In Chapter 4, this dissertation uses theory to guide data analysis and interpretation. A theory is an effort to explain, predict, or understand a phenomenon, such as a relationship, event, or behavior. A theoretical framework is used as a lens through which the world can be viewed (Major & Savin-Baden, 2013). As mentioned previously, the theoretical approaches utilized include public interest, social equity, virtue, and relational. The following section introduces these approaches.

Cases of corrupt behavior, debated in the media and in government in general, should serve to inform theory. Learning takes place as theory and practice each enrich and clarify one another (Sabl, 2002). Philosophy, norms, and theory are the guides for both the structure and the actions of government. Therefore, research on ethics needs to inform larger issues of philosophy and ethical theory in order to improve the practices of government (Frederickson, 1993). Thus, cases should be continually subject to the application of theoretical frameworks in order to provide appropriate context to

misconduct.

Theoretical Frameworks

In seeking to describe the normative foundations for public administration ethics, Cooper (2004) posed the question: Whose ethics should we adopt in making ethical decisions in government? The potential responses are many, but he suggested five theoretical areas of professional ethics that have emerged as significant options over the past forty years. These areas include the following: 1) Regime values, constitutional theory, and founding thought, which follow from the scholarship of Rohr as well as others (Rohr, 1978); 2) Citizenship theory, which focuses on serving the needs of citizens and the community rather than bureaucratic structures (Stivers, 2000); 3) Social equity theory, which is rooted in the New Public Administration movement of the early 1970s and points to equity as its core ethical principle (Frederickson, 1990); 4) Virtue theory, which focuses on desired character traits of public administrators (Hart, 2001); and 5) The public interest theory, which is arguably the most widely recognized normative theory and oft cited during misconduct (Cooper, 2004).

These areas are by no means an exhaustive list, but they do reflect the variety of thoughts and perspectives within the field. They also reflect the complexity of the field—cases of misconduct vary, and theoretical approaches often differ in their understanding of and resolution to ethical challenges (Burke, 2001). Although it may not be possible to develop an all-encompassing theory of ethics, cases need the application of theoretical frameworks in order to provide various contexts for understanding corruption (Gutmann & Thompson, 1984; Martinez, 2009). This dissertation utilizes four theoretical

approaches as the means to understand the case study findings.

The first two approaches are public interest and virtue. The Swallow case exemplifies the need to determine the proper limit to a public official's own desires versus his/her public obligations of the job. The public interest approach provides a normative gauge that is helpful in making such determinations, particularly to misconduct assessed in the retrospective (Cooper, 2004). This approach also accommodates the dual vision of maintaining compliance to rules while also fostering a democratic ethos (Graham, 1974).

The virtue approach focuses largely on the individual character traits of the public official. Virtue emphasizes that moral qualities and mental attitudes of public servants themselves make a difference (Bailey, 1964). This approach provides guidance as to how a person's character can be viewed as an exemplar of virtue or a failure of virtue. Such guidance stems from personal actions—either brief but highly dramatic acts or routine, often less conspicuous, acts (Cooper & Wright, 1992).

The remaining approaches are the social equity approach and the relational approach. The Swallow case shines a light on the electoral system and the massive amounts of money necessary to compete politically. The social equity approach is useful here because it questions the equity and fairness of such a system. It further focuses on policy prescriptions, the law, and the status of the individual or group in relation thereto (Cooper, 2001; Kravchuk & Rosenbloom, 2005).

Although not specifically discussed in Cooper's five major approaches to administrative ethics, the fourth approach utilized comes from the 2011 book by Michael M. Harmon and O.C. McSwite entitled *Whenever Two or More Are Gathered*:

Relationship as the Heart of Ethical Discourse. This approach represents a post-postmodern viewpoint that broadens understandings of public misconduct by emphasizing human interaction rather than mere codes and rules of conduct. In all, it encompasses a holistic approach that considers institutional structure, culture, and the types of relationships that stem from these. I apply each theoretical approach to the case findings in the latter half of Chapter 4.

Conclusion

The vibrancy of democracy depends, in part, on ethical behavior in government. One of the central goals of a democracy is the protection of individual freedom. The free exercise of ethical judgment by democratic citizens has been one of the most important expressions of that freedom. For example, whistle blowing and other forms of disclosure can thwart unethical and illegal activities that detract from the pursuit of proper public activities. In addition, ethical behavior can strengthen democracy by providing the information necessary for informed political choice and by inviting discussions based on fairness. Finally, ethical behavior can foster a general ethos that not only positively influences government operations but that sets an example for the citizenry at large (Burke, 2001).

Unfortunately, when it comes to corrupt behavior in government, policy makers tend to immediately fight it rather than come to understand it (Roman, 2012).

Anticorruption policy based on narrow views of misconduct fails to serve society's long-term interests. For this reason, a case study on Swallow is necessary to shed light on actual corrupt behavior. Furthermore, applying the following approaches—public

interest, social equity, virtue, and relational—should help to enhance understanding of the case study findings through the macro (society), meso (organization), and micro (individual) perspectives (see Bowman & West, 2015). All approaches, taken in tandem, provide separate values and ideas that, together, bolster the public interest (see Burke, 2001; Rosenbloom, 1983).

CHAPTER 2

METHODOLOGY

This dissertation addresses corrupt behavior through a case study of John Swallow in the OAG. A pragmatic theoretical approach informs the case study. The main purpose of the study is to understand a phenomenon, such as an experience or an event (Caelli, Ray, & Mill, 2003). In this case, the purpose is to understand the ethical misconduct of John Swallow. In addition to forming propositions, Chapter 4 uses theoretical approaches to ethics to analyze the case.

A Case Study Approach

This dissertation is an explanatory, political study with a pragmatic theoretical approach (Major & Savin-Baden, 2013, pp. 156, 170). A practical approach is used that allows for an eclectic set of research methods to examine the facts of a case within a local political context (Major & Savin-Baden, 2013). The case study approach enhanced my research by putting ethical issues in context, and by describing the actual behavior of public officials (Frederickson, 1993). Another advantage of the case study was the depth of analysis that it offered. Such depth is accounted for in the richness, completeness, and wholeness generated by the within-case analysis (Gerring, 2007).

The pragmatic qualitative research approach, as referred to by Major and Savin-Baden, draws upon the most sensible and practical methods available in order to address a given research question. Not all researchers label this approach as pragmatic, per se—for example, Merriam (1998) uses the term ‘basic’ or ‘generic qualitative research’—but all seek a simple yet legitimate approach to addressing the research questions of their respective fields. This approach aims for a description of an experience or event as interpreted by the researcher (Major & Savin-Baden, 2013). Thus, those utilizing this research approach seek to “discover and understand a phenomenon, a process or the perspectives and worldviews of the people involved” (Merriam, 1998, p. 11).

There are different perspectives as to how pragmatic qualitative research should proceed. For example, some researchers view this approach as best fulfilled through ‘interpretive description’ that is noncategorical and highly interpretive (Thorne, Kirkham, & Macdonald-Emes, 1997). Other scholars envision this approach as more categorical, less interpretive, and less abstract. Such research proceeds for providing a mere descriptive summary of the data (Sandelowski, 2000).

My pragmatic research falls somewhere in between a noncategorical, purely interpretive approach and a categorical, purely descriptive approach. Such a point marks a meeting point of description and interpretation (Major & Savin-Baden, 2013). Still, I would describe my methodological approach as qualitative-interpretive, as I drew upon my own experiences as a type of evidence to inform the propositions in Chapter 4. I did so because my situated knowledge of the local culture provided important insights to understanding this local case (Schwartz-Shea & Yanow, 2012). The positionality section of the chapter contains more discussion concerning my situated knowledge.

From an ontological standpoint, the interpretive approach sees reality as pliable and constructed, opposing what a positivist would argue is permanent and discoverable. From an epistemological standpoint, positivism sees the role of the researcher as objective and logical in seeking knowledge; the interpretive approach, however, sees the researcher as not objective but situational in seeking knowledge (Yanow & Schwartz-Shea, 2006). Thus, according to interpretivism, knowledge is not fixed but is the construction of meanings (Berger & Luckman, 1966). It is culturally and historically contingent, laden with moral and political values, and serving certain interests and purposes (Howe, 1998).

As discussed early in Chapter 1, the approach that I utilized did not limit attention to context, as purely quantitative studies often do. Quantitative studies tend to focus on correlations between variables, seeking to establish causality through statistical significance. However, the case study approach allowed me to pay attention to the process of corruption and the motivations of those involved (De Graaf & Huberts, 2008). It provided me with richer details of actual cases (De Graaf, 2007). Quantitative studies of corruption, alone, will not lead to a richer understanding of how and why unethical behavior occurs (Haller & Shore, 2005). Because the conclusions from this dissertation derive from a more comprehensive view, they could possibly proceed and inform a future quantitative study.

John Swallow as a Case

What makes the Swallow case useful for addressing the research question? First, it is a local issue, and it represents a pragmatic research opportunity (Gerring, 2007). Not

only are existing data available to the public, but there are local contacts that can provide further information through interviews. Such interview sources may not be as available or accessible in a more distant geographic location. Second, the Swallow case represents a current issue. Proclaimed “the most sweeping political scandal in Utah history,” people in Utah are now aware of and concerned about this issue (Canham, Gehrke, Lang, & Mims, 2014, A4). An analysis of this case is likely to not only shed light on current issues, but also provide a clearer understanding of the local factors that led up to such misconduct (Gerring, 2007). In the same vein, an analysis of the Swallow case may prove to be quite revelatory to corrupt behavior in state government in general (Creswell, 1998). The case has made news nationally, and such controversy deserves scrutiny from academics as well as the media.

The focus of this dissertation is the investigation of John Swallow, as stipulated in the Utah House’s Investigative Report. However, subsequent criminal investigations have now also implicated former Utah Attorney General, Mark Shurtleff, for alleged corrupt activities. In order to address the research question, I considered the misconduct of both men. Such a strategy was necessary in order to understand the effects of a culture of power. Still, the data collected are comprised of mostly Swallow’s alleged activities. Thus, while the dissertation addresses Shurtleff where applicable, much of the discussion centers on Swallow.

This dissertation focuses on the top leadership of the OAG. Although Chapter 1 draws upon literature from organizational theory, this dissertation is not an organizational study of the OAG, per se. Forthcoming evidence may warrant such a future study but, for now, the data are limited mainly to the top leadership. Notwithstanding, the

organizational context surrounding the actions of Swallow and Shurtleff is discussed. Chapters 3 and 4 will discuss pertinent organizational aspects of their misconduct, where necessary.

Positionality

In order to carry out the following research in a transparent, open manner, it is helpful to make full disclosure of my position to the proposed case and research question. Openly discussing who I am is important because the legitimacy of my research findings may ultimately depend on it. For example, my background and identity could have influenced potential relationships that I had with interviewees in the field (Schwartz-Shea & Yanow 2012). These relationships, in turn, may have affected the data generated as well as my analysis of it. Thus, assessing my identity in relation to this research adds credibility to the research process and outcomes.

I am a former employee of Utah state government. I am not an elected politician, nor do I work for one. Furthermore, I do not know John Swallow or anybody else who formerly worked in the Utah Attorney General's (OAG) office. However, I do not consider myself an outsider looking into a foreign, unrecognizable world either (Fenno, 1986). I worked at the Capitol building in Salt Lake City for approximately a year's time in the Lieutenant Governor's office. I then continued my work in Utah state government in the Department of Workforce Services. Neither position required extensive time working with elected officials; however, I did mingle with and occasionally meet with agency directors and the Lieutenant Governor, the Governor, and their respective staffs. In my current administrative capacity at the University of Utah, I am still, technically, a

state employee.

I am a lifelong member of the LDS Church (i.e., a Mormon). Such membership means that I am part of the majority religion of the state that yields considerable influence politically and culturally. As a Mormon, I am part of a network that shares connections and commonalities across regions, social classes, and ethnic lines, not only in Utah but also throughout the world. Mormons not only share common religious beliefs, but many of them share similar lifestyle and cultural attributes. Such sharing is particularly true for Mormons that reside in Utah.

I understand generally how fellow Mormons think, in terms of what is important to them, how they choose to live their lives, and how they relate to others. I think it is generally true that sharing a common faith with another person generates familiarity and even trust, regardless of other circumstances. I would guess this is true of most other religious faiths, ideologies, or cultures. However, the LDS Church is unique in its demands on members' time and activities. Such demands foster the mentality amongst its members of either being actively involved in the Church or not being involved at all.

Politically, I consider myself a moderate with no strong affiliation to either the Democratic Party or Republican Party. Many of my political beliefs align with the Democratic Party, but I strive to remain open politically. My family members, today, belong to both parties and ascribe to various ideological viewpoints. As a political scientist and member of the community, I feel that it is important to see multiple viewpoints on the political spectrum and not indulge in partisan politics. In negotiating access to the research subjects, my background, or "demographic," afforded me certain advantages (see Schwartz-Shea & Yanow 2012, p. 67).

First, my political position did not limit me. When people saw my name or my face, they did not automatically see a card-carrying member of either party. Neither did they observe me lobbying for a certain bill or political cause at anytime. In short, I had no discernible political agenda—likely, interviewees perceived me as nonthreatening. Secondly, as a white male, born and raised in Utah, I looked the part of most politicians and government officials who work in Utah state government. My background and personal profile, thus, did not hinder my access to research subjects while in the field setting. Finally, my identity as a Mormon was helpful in providing context to certain data generated.

For example, one interviewee brought up the influence of the religious culture in relation to this case. I had the insider knowledge to recognize and understand the significance of such an influence (Fuji, 2010). Without reflecting on that insider knowledge, I may have been unable to see how the Mormon culture could possibly influence power in state government. Generally, it influences government by inducing people to conduct government affairs in a more personal, emotional manner. Examples of such governance include managing a public organization in a patriarchal manner, openly discussing personal, religious views in formal public settings, or favoring those in a public organization who share the same religious beliefs. Governing in a more professional manner, prioritizing public values rather than private ones, should (ideally) not entail such examples.

In terms of potential disadvantages, I knew that doors of opportunity would not automatically be accessible. People may be suspicious of academic researchers because they do not feel like academics understand their world. Furthermore, they may feel that

academics have an agenda of criticism that they perceive as unfair (Schwartz-Shea & Yanow, 2012). Although I did not detect such an attitude in any more than about two interviewees, I knew that such attitudes could lead to the withholding of some facts and judgments.

In order to avoid such complications, I sought to be honest with research subjects about who I was and what I was doing. Yet I tried to emphasize commonalities rather than differences. For example, in most instances, I let people know that, like them, I worked full time for a living. Such commonalities were important in building trust. Secondly, I committed to protect the actual identities of research subjects at the beginning of the interviews and assured them that I would eventually destroy their specific, identifiable attributes. I knew that keeping such commitments was important. Above all, I sought to build trust by being accommodating, polite, and truly listening to what people had to say.

Evidence

The data generated for this dissertation are comprised largely of archival data. Archival data are collections of records generated by an organization or institution (Frisch & Kelly, 2012). The two main sources utilized include the *Utah House of Representatives Report of the Special Investigative Committee* (referred to as the Report) and texts from local and national media. In addition, I used some video and audio media as well as other key documents.

Because not all content from the Report and the other texts was applicable, I had to be selective of the content. For example, rather than sifting through material

chronologically, I tried to examine the most applicable material first (Frisch & Kelly, 2012). I selected documents based on key words—such as ethics, corruption, power, culture—in the title, or in the body, that corresponded with my research question. Thus, I prioritized information that provided understanding as to how the misconduct occurred. Eventually, texts that merely stated the facts diminished in importance in favor of texts that provided clues as to how the misconduct resulted from a culture of power.

Being aware of and detecting partisan influences in the information was important (Bowen, 2009). For example, certain local media texts appeared to contain partisan influences. Such influences resulted more from the opinions of local politicians or analysts that expressed their views through the media. Both Republicans and Democrats concluded that Swallow had done wrong. However, the extent of wrongdoing and the reasons offered to explain that wrongdoing appeared to depend, somewhat, on ideological views. I had to read and analyze with an eye of criticality in order to recognize and account for such views. Such criticality required interrogating the meaning of a document beyond the surface of the text (Smith, 1974).

The Report

Containing 206 pages, the Report represents the main source of data for the Swallow case. It became public in March 2014, after approximately 8 months of investigations. The Report represents the stipulated, legal facts of the case. It is considered an authentic, credible source of information because of the thorough vetting process from which it emerged (Major & Savin-Baden, 2013).

For example, the Report is the product of a bipartisan House committee of nine

representatives, providing checks and balances to any potential partisan biases. These representatives worked in conjunction with state legal counsel as well as an investigative firm to verify evidence. Data within the Report originated from over 100 interviews and testimonies of witnesses as well as from the analysis of thousands of pages of documents related to the case. In short, the Report is comprised substantially of primary sources of information, drawn from actual emails as well as Swallow's own testimony.

Additional Key Documents

- Word-for-word depositions that resulted from the Utah Lieutenant Governor's investigation on October 15 and 25 of 2013. These provide primary information regarding Swallow's own narrative and background.
- A report was made available, conducted by outside counsel to the OAG, which investigated Shurtleff's actions relating to the Marc Jenson case. This report provides a clear view of Shurtleff's actual behavior within his own office.
- Dozens of past emails of Swallow and Shurtleff were published. These documents provide primary evidence of their words, actions, and intentions.

The actual Report utilized ample information from the additional key documents.

Content from the Report and the key documents covered a lengthy span of time, many events, and many settings (Bowen, 2009). These documents provided information regarding Swallow's campaign, his relationship with Jeremy Johnson, and his role in the Jenson case—from about 2007 up through 2013. They offered an effective means of gathering data when the events were no longer observable, or when informants forgot some of the details. Furthermore, these documents detail the behavioral reality that is

part of political institutions and exhibited in politicians' actual actions and choices (Frisch & Kelly, 2012). With Swallow and Shurtleff, the reality revealed went beyond campaign speeches and official debates to show the over-arching need to win. Lastly, these documents were a cost-effective and efficient means for accessing ample information (Bowen, 2009).

Local Media Reports

A list of local media reports consulted, for example, includes the following:

- Canham, M., Gehrke, R., Lang, M., & Mims, B. (2014, July 16). Two AGs, 21 felonies. *The Salt Lake Tribune*, p. A4.
- Harvey, T. (2014a, July, 16). Charges tie Shurtleff job interview to bank of america deal. *The Salt Lake Tribune*, p. A6.
- Gehrke, R. (2014b, July 16). The Charges against Swallow and Shurtleff. *The Salt Lake Tribune*, p. A4.
- Romboy, D. (2013a, June 9). Unraveling Shurtleff and Swallow's complicated relationship with a felon. *Deseret News*.

(All cited sources appear in the references.) Documents and texts generated from the media have added supplementary, contextual material to the case facts (allowing for triangulation of the data). In other words, these sources have provided relevant information not always discussed or emphasized in the Report. For example, the local media reported the employment link between Shurtleff and The Bank of America (Harvey, 2014a). Such information provided extra clues as to Shurtleff's motivation in dismissing the foreclosure lawsuit. Local media sources have been helpful by offering coverage that was close to the stories, leads, and contacts. Furthermore, they have also

provided a means for tracking change and development within the case, over time, and for gaining multiple perspectives (Bowen, 2009).

National Media Reports

A sample list of national media reports consulted, for example, includes the following:

- Price, M.L. (2013, January 24). Utah gov. says state needs ethics reforms. *AP Regional State Report: Associated Press*.

- Confessore, N. (2014, March 18). A campaign inquiry in Utah is the watchdogs' worst case. *New York Times*.

- Richardson, V. (2013, June 27). Is one-party rule dividing America? Concentration of power can lead to overreach, backlash. *The Washington Times*.

Because national coverage of the case was scarcer than local coverage, I scrutinized all national sources initially found through electronic search engines. However, I only utilized content that addressed the research question. National coverage has been advantageous by providing national perspectives on the Swallow case. In other words, these provided broader governance perspectives that balanced and supplemented local views and coverage on the misconduct of Swallow.

Audio and Video Media

In addition to documents and texts, I extended the use of media coverage to video and audio sources. For example, the YouTube website provided various video clips of John Swallow throughout different points of his tenure in the OAG. Such video clips

ranged from him talking about his vision as Attorney General before the election to, later, addressing the allegations of misconduct while in office. Again, much of the content from these clips was not applicable to the research question. I only selected those statements that shed light on Swallow's motivations. These clips provided Swallow's own words and views to further address the research question.

In addition to video media, I utilized audio media. In particular, a National Public Radio program that aired the day that the authorities arrested Swallow and Shurtleff was especially informative. On this program, numerous guests, including the District Attorney involved in making the arrests, offered their own words and views regarding Swallow's misconduct. Hearing direct commentary from these sources provided credibility to the data previously collected. However, being critical as well as aware of context was still necessary in order to gain a proper perspective on the meaning of the data (Major & Savin-Baden, 2013; Smith, 1974).

Interviews

I conducted semistructured interviews with locals who had knowledge of the Swallow case in March and April of 2015. In all, I conducted six face-to-face interviews. As previously mentioned, I assured protection of all research subjects' identity. Therefore, I do not give complete details about the individuals because such information may expose their identities.

The interviewees familiar with the Swallow case constituted a balanced representation of vantage points (Roulston, 2010; Rubin & Rubin, 1995). For example, two of the interviewees were women, while the remaining four were men. One was a

registered Republican, while two of them were registered Democrats. The remaining three interviewees' party affiliation was unknown. Finally, three of them worked professionally as local state representatives, one worked in a state agency, and the remaining two worked outside of government.

I digitally recorded and, later, transcribed all interviews, word for word. I utilized a script of roughly eight interview questions based on the research question and other ideas and concepts that emerged from the literature review (see the Appendix for the questions). The average interview took about 40 minutes. The longest interview lasted 56 minutes, while the shortest one lasted about 25 minutes.

Upon transcribing the interviews, I destroyed the digital recordings, as required by my promises to interviewees. Furthermore, I secured all notes taken during the interviews in a safe cabinet. My plans are to destroy these. Because I assured protection to the identity of all interviewees, pseudonyms identify the text citations to these sources. Thus, I have tried to be cautious and assure that no risk affects those involved in the research (Fuji, 2012).

The interview data have resulted in many benefits. In particular, they helped to clarify complex details from the Report. The events and relationships documented in the Swallow case are somewhat convoluted. However, the interview data assisted in unraveling complicated relationships and further clarifying the sequence of events (Rubin & Rubin, 1995). Such clarity enabled me to make critical connections within the data. Furthermore, the interview data have been insightful. Such insights assisted me in supporting emerging themes from the data as well as in emphasizing certain themes over others.

I designed the interview questions to produce open, thought-provoking responses (Morse & Richards 2013). For the most part, I received such responses. However, on one occasion, my question led to a response that was not particularly useful for my research purposes. I asked one local politician about his thoughts concerning social equity and ethical governance, but he did not understand the original question. In attempting to help him understand the question, I mistakenly used the word “redistribution.” Immediately, his body language conveyed that this word triggered political alarm bells for him. He then proceeded to argue against redistribution. In later assessing these particular data, I understood that my own wording had triggered this response.

There can be limitations to interview data. For example, interviewees may have certain agendas of their own, such as self-aggrandizement. Others may simply misrepresent or exaggerate information (Lin, 2000). Some of my interviewees’ responses were quite emotional, while a few responses conveyed information from what I considered questionable sources.

While all of this was legitimate data for me, I sought to be reflective of what I heard and corroborate evidence with other sources, where possible (Lin, 2000; Littig, 2009). I sought to interpret the data responsibly. In addition, I asked certain follow-up questions throughout the interviews in order to clarify responses and discourage generic, scripted answers. Paying attention to cues from facial expressions and body language helped me to recognize potentially scripted responses. Ultimately, I used these techniques to weigh the value of the data (Morse & Richards, 2013).

In corresponding with the interviewees, some of whom had knowledge and power

at their disposal, I prepared myself to act as a competent partner. I read over the data numerous times. In particular, I scoured the Report in order to become familiar with the case details and potential contexts. Such familiarity invited trust, which put the interviewees at ease, and helped to diffuse any tension from discussing ethical misconduct. Furthermore, I memorized the questions as much as possible to establish a conversational flow and not lose eye contact with the interviewees. Above all, being flexible was necessary to allow me the information that I needed and to generate sufficient data (Creswell, 1998).

Analytic Strategy

The ultimate goal of the analysis is to make sense of the data (Major & Savin-Baden, 2013). However, it is helpful to remember that the analytical process is typically one of moving in analytical circles rather than using a fixed linear approach (Creswell, 1998). As much as I sought to progress in a fixed linear direction, working through the analysis of the data resulted in plenty of circles. I found that creating numerous visual displays of data was useful in working through questions and making sense of the data. I used poster paper as a medium to create flow charts and comparison matrices. These were invaluable by allowing me to record initial codes and then to eventually create and refine propositions. Ultimately, I used a journal to record various insights and questions. These insights and questions helped me to develop themes throughout the analytical process.

As previously mentioned, I read the data numerous times. This particular process resulted in me writing a description of the case, as seen in Chapter 4. Throughout this

process, I also created memos and notes (Creswell, 1998). The next stage involved going back to the data and reducing it by establishing codes and categories. I gave myself about 4 weeks to code and create categories. Eventually, I collapsed and adjusted the categories, as necessary, in order to form themes (Roulston, 2010).

Coding

Initially, I engaged in the open coding process by writing down words and phrases based on a priori keywords and ideas. The a priori keywords and ideas stemmed from the research question and other concepts discussed in Chapter 3. For example, key concepts from Chapter 3 include the public good (or interest), character, equity, and relationship. Thus, within the data, I ascribed words such as friendship, money, leadership, ideology, etc., to certain ideas and keywords. I then organized these codes into categories as a means to think about the data more broadly. In reality, I undertook the coding and categorization concurrently as opposed to being separate steps (Roulston, 2010).

The process then advanced to axial coding. Here, I focused on re-examining the data in order to form themes and discover relationships between the themes and categories (Major & Savin-Baden, 2013). Some of the categories already appeared to have certain ties to one another, while others stood alone. For example, the money in politics category and the achieving victory category seemed connected. Later in the process, I found that the ideology category connected with the former two categories. In the meantime, I continued to analyze the data and keep a separate, running tally of insights and themes that emerged. Eventually, patterns emerged as well. For example,

relationships (a major theme) seemed to undergird the desire to achieve electoral victory as well as generate the money necessary to ensure victory.

The continual comparison between formed patterns and the actual data eventually led to the formation of propositions. Once I formed the propositions, I spent the last few weeks of analysis continually correlating them with actual evidence within the case. I did such comparison in order to determine how well or poorly they fit the data (De Graaf & Huber, 2008). I then refined, or changed, the propositions as necessary. The final propositions, thus, derived from the research question as well as from supporting text in Chapter 3. I supported them with evidence in the form of excerpts from interviews, and citations from documents, texts, and audio and video media (Major & Savin-Baden, 2013; Roulston, 2010). Ultimately, they shed light on the relationship between a culture of power and corrupt behavior.

Further Analysis

I used the theoretical approaches—public interest, social equity, virtue, and relational—to provide further analysis and interpretation of the propositions established in Chapter 4. The theories as a whole represent distinctive vantage points by which to assess the Swallow case (Bowman & West, 2015). Once I established the propositions, these theories acted as frames to answer the question, “whose ethics should we adopt in making ethical decisions in government” (Cooper, 2004)? In other words, the theoretical approaches provided different perspectives on such propositions and the potential policies that may emerge from them.

Each theoretical frame provides a critical context to further assess each

proposition—virtue as character naturally fits with Proposition 1, social equity fits with Proposition 2, and relationship fits with Proposition 1 as well as Proposition 3—although neither the frame nor proposition are completely exclusive to one another. For example, first impressions of Swallow’s misconduct may not reveal the subtle influences of the elected office system. However, the social equity perspective considers inequalities stemming from the elected office system as critical in making sense of the misconduct. By pointing to different themes and facts of the case as relevant, the various ethical theories have increased understanding of the dynamics of public corruption. In other words, the four different approaches contributed by “teasing out” the manner in which a culture of power contributes to unethical conduct (Bowman & West, 2015, p. 119).

Limitations

One potential disadvantage of analyzing the Swallow case is that criminal proceedings are underway at the time of this writing. Investigations conducted by the FBI and the state and county law enforcement of Utah launched such proceedings. As a result, certain people affiliated with these offices, or the OAG, are unable to provide information about the case. For example, early in the research process, I contacted a certain individual who works in the DA’s office for preliminary information. This person, however, politely declined to give me information because of his/her office’s role in the prosecution of the case. Notwithstanding, the people who were willing to discuss the case with me generated ample data.

Some may point to interpretive bias in my research as another potential limitation. The final interpretations are to some extent a reflection of my own training, experience,

and assumptions (Roman, 2014). My own admission of positionality supports such sentiments. However, interpretive bias is not as threatening of a concept for a qualitative-interpretive approach as it would be for positivist standards (Yanow, 2003). I have sought, instead, to establish validity through a transparent process of data collection and analysis rather than absolute certainty (De Graaf, 2007).

Conclusion

In sum, the case study approach taken in this dissertation provides a fuller, more complete view of public corruption. In particular, the qualitative-interpretive nature of this study allows for a better understanding of the motives and dynamics involved in such corrupt behavior (De Graaf & Huber, 2008). The data collected and analyzed from documents, texts, and semistructured interviews allow for a triangulation of the data. Such triangulation helps create a richer picture of not only public corruption but also the necessary policies to deal with such misconduct (Roman, 2012; Roman & Miller 2014). This case study is not completely free from, what some may term, biases and assumptions of the researcher. However, I have sought to be transparent in my positionality and thorough in collecting data and adhering to the case facts.

CHAPTER 3

THE CASE OF JOHN SWALLOW

According to the Utah State Legislator website, the duty of the Utah Attorney General (AG) is to be the sole legal adviser of the State officers, except as otherwise stated, and to perform such other duties as provided by law (*Utah State*, n.d.c). The AG in Utah is an independently elected constitutional officer of the executive department and serves 4-year terms. Like most states, the popular vote elects the AG (*Utah Office*, n.d.a). According to the current website, the OAG's main priorities are protecting families, fighting drug crimes, prosecuting white-collar criminals, defending state laws, and promoting efficiency and transparency. In order to accomplish such goals, the Office encompasses separate departments, including the Appellate Department, the Civil Department, the Criminal Department, and the Constitutional Section (*Utah Office*, n.d.b).

While corruption of any public official is problematic, corruption of the highest official in an office responsible for providing equal justice under law is particularly disturbing. Such corruption “undermines the public’s faith that justice in the state is being dispensed equally and without regard to economic, social or political status” (UHR, 2014, p. 2). The allegations of corruption and improper behavior centering on attorneys

general may seem somewhat ironic. However, understanding the culture of power that these men operated in mitigates such irony.

The facts and evidence presented in this chapter, as well as subsequent chapters, draw heavily on the Report of the Utah House of Representatives Special Investigative Committee. The Report utilized evidence from a variety of sources. Investigators working with the Committee's investigative firms conducted approximately 165 witness interviews. While the Committee first approached many witnesses, others approached the Committee to volunteer information. In certain instances, investigators and special counsel worked with witnesses to produce voluntary sworn written statements attesting under penalty of perjury to critical facts in the case (UHR, 2014, p. 2).

In addition, the Committee collected more than 20,000 documents through the exercise of its subpoena power. The voluntary assistance of multiple sources, including confidential sources, provided further documents, leads, and evidence. The Committee also reviewed public records, such as press reports and court filings (UHR, 2014, p. 2). In addition to the Report, this chapter also utilizes public press reports as evidentiary materials.

This chapter reports the facts of the case. It also identifies key components of a culture of power. The chapter proceeds by discussing three specific instances in which the exchange of benefits with individuals and industries compromised the OAG's ability to maintain the law and protect the public. First, it describes Swallow's "pay-to-play" relationship with Jeremy Johnson; second, it explains Swallow's relationship with Richard Rawle and the payday lending industry; third, it discusses Swallow's alleged dismissal of a lawsuit that undercut the interests of thousands of Utah homeowners in

order to cover up a conflict of interest. Lastly, it describes Swallow's alleged involvement in fabricating and eliminating important data and evidence.

Jeremy Johnson

John Swallow and Jeremy Johnson first became acquainted in 2008. At the time, Swallow was in private law practice and was acting as chief fundraiser for Mark Shurtleff's 2008 campaign for Attorney General. Swallow was immediately interested in the political and financial benefits that Johnson could provide. At the time, Johnson owned I Works, Inc., a St. George-based million dollar online marketing and sales business (UHR, 2014, pp. 45-46).

Johnson's business purported to specialize in helping customers apply for government grants. The federal government later concluded that the business defrauded consumers and shut the operation down. In 2006, the Utah Division of Consumer Protection also cited the company for unscrupulous business practices. Nevertheless, Johnson's financial success, widely publicized humanitarian efforts, and willingness to support Shurtleff were all very important to Swallow at the time (UHR, 2014, pp. 45-46). As the Report of the Special Investigative Committee described it, Swallow "set out to make Mr. Johnson an ally to the Shurtleff-Swallow political machine" (UHR, 2014, p. 46).

Just after Swallow joined the OAG in 2010, Johnson used his relationship with Swallow to seek approval for an online poker processing operation in which he was involved. It had the potential to be very profitable, yet Utah law did not support its legality. Swallow arranged for him and Attorney General Shurtleff to meet with

representatives of the online poker industry to discuss the industry's concerns. As it turned out, experts in the legality of online poker in the OAG were not invited to that meeting (UHR, 2014, pp. 52-54).

In the meantime, the relationship between Johnson and the OAG's highest officials developed further. Both Swallow and Shurtleff allegedly accepted illegal gifts from Johnson. Both men reportedly used Johnson's private jet and stayed at his St. George homes. According to evidence, Swallow used Johnson's Lake Powell houseboat twice (Canham et al., 2014, p. A4). During this time, Swallow indicated to Johnson through email that, as Chief Deputy Attorney General, he found nothing in Utah law that would prohibit the poker processing activity that Johnson sought to advance. While this was not an affirmative answer to the question of legality, it gave Johnson some encouragement at the time. Certain attorneys within the OAG later told the Committee that, under the circumstances, the legality of online poker was not a realistic option in the state of Utah (UHR, 2014, pp. 57-59).

Regarding this matter, the Committee concluded that the relationship between Swallow and Johnson was damaging to the public interest. The relationship seemed based on Swallow's appetite for money, and Johnson's desire to advance his economic and business interests. Such relationships between government officials and certain citizens foster improper influence in the type of access that citizens have to the OAG's highest-ranking officials. Furthermore, such imbalances invite suspicion and increase mistrust of government institutions (UHR, 2014, p. 6).

Richard Rawle and the Payday Lending Industry

When Swallow joined the OAG in December 2009, he already had a strong connection to the payday lending industry. Swallow was good friends with Richard Rawle (now deceased), the former owner of the Check City chain establishments. Rawle had been one of Swallow's earliest political supporters during his unsuccessful campaigns for a seat in the U.S. House of Representatives. Rawle later hired Swallow to serve as general counsel and as a lobbyist to Rawle's payday-lending businesses (UHR, 2014, pp. 62-63).

When Swallow announced his candidacy for Attorney General, the payday lending industry was a natural source of support. However, he knew that such strong support from the controversial industry could leave him politically vulnerable (UHR, 2014, p. 68). Swallow told a key industry figure that he wanted to raise money from companies and individuals not tied to payday industries. However, he also divulged to other payday contacts that he wanted to "help the industry as an AG following the election" (UHR, 2014, p. 7).

Instead of rejecting the industry's financial support, Swallow decided to keep the industry's support a secret. He allegedly accepted direct support for his campaign from Rawle but did not disclose it. This support included Rawle-owned office space for campaign work. Rawle also provided money to Swallow that was accessed via a prepaid credit card (UHR, 2014, pp. 72, 79).

Swallow's campaign also created two separate political action committees (PAC) through which individuals and businesses in the payday lending industry could donate large sums of money—Utah's Prosperity Foundation, a nonprofit PAC, and Protect Utah,

a nonprofit corporation. Because Utah law requires a PAC to disclose its contributions and expenditures, Swallow's campaign disclosed the sources of money but disguised their true origin and purpose. For example, allegedly at Swallow's request, payday contributors gave money via a holding company or media company to shield the fact that it was coming from the payday industry. Utah's Prosperity Foundation would later funnel hundreds of thousands of dollars into Swallow's main campaign committee (UHR, 2014, pp. 76-79).

By August 2011, the Swallow campaign figured out an even better way to block payday donors from public view. The same professionals that operated the aforementioned Swallow campaign entities registered a new entity, the Proper Role of Government Education Association (PRGEA). However, unlike the previous ones that made it difficult for the public to trace the origins of money given, the new entity made it nearly impossible (UHR, 2014, pp. 81-82). The PRGEA filed tax forms with the Internal Revenue Service as a 501(c) (4) entity, claiming tax-exempt status. On tax forms, its listed purpose was "to educate the citizenry on the proper role of government" (UHR, 2014, p. 83). Yet, as a 501(c) (4), the PRGE did not have to register with the Utah elections office, much less disclose its donors or the amount of money that was raised (UHR, 2014, p. 83). Thus, the Swallow campaign took advantage of the limited disclosure obligations of these third-party entities under Utah law.²

The Committee concluded that Swallow and his campaign consultant, Jason Powers, used the PRGEA to raise hundreds of thousands of dollars—mostly from the

² According to the Report, the Utah Legislature has since addressed at least part of this problem by approving a bill which requires a political issues committee, such as a 501(c)(4) entity, making at least \$750 in political expenditures, to disclose in detail expenditures and contributions received (UHR, 2014, p. 83).

payday industry. Recovered emails show that Swallow was aware that the PRGEA laundered a large amount of Payday money for his own benefit. In fact, he allegedly directed the giving of contributions to particular entities, depending on how controversial they may have appeared to be. In all, about \$452,000 dollars flowed into PRGEA (UHR, 2014, pp. 86-87).

The Committee further found that Swallow and his campaign used much of the \$452,000 on negative media ads as well as direct attacks on those who sought to regulate the payday industry. According to the evidence, they directed the negative media ads directed towards Swallow's opponent in the Republican primary, Sean Reyes. Allegedly, the campaign also devised a push-poll to smear Reyes's character. The television ad attacked Reyes's integrity over an alleged campaign finance violation previously investigated and dismissed. After the ads aired, questions circulated as to who had funded such negative ads. In response, the Swallow campaign reportedly denied involvement (UHR, 2014, pp. 91-92).

Swallow and the campaign also used the payday money to attack Utah Representative Brad Daw, who had previously introduced legislation to regulate the industry. Apparently, Jason Powers used large sums of the PRGEA money to send anti-Daw mailers to each one of Daw's constituents. He sent mailers to all sitting legislators, likely as a means to intimidate anyone else intending to oppose the payday industry. Believing that the mailers were untraceable to payday sources, Powers publicly denied that the mailers were payday related. Meanwhile, Daw went on to lose the Republican nomination for the seat that he had held, in part, because of the anti-Daw mailers (UHR, 2014, pp. 95-98).

In the end, Swallow and his associates appeared to be involved in campaign contribution laundering. They allegedly established a network of nonprofit entities that exploited loopholes in Utah law, enabling the giving of large contributions of money in secret. The loopholes allowed for washing the taint of payday industry money clean. The lack of transparency and openness kept the public from understanding where the money came from. While Swallow portrayed himself as not beholden to the payday industry, it appears that the opposite was actually true (UHR, 2014, p. 102).

The Bells and the Mortgage Foreclosures

In March 2011, Utah residents Timothy and Jennifer Bell filed a lawsuit to fight a foreclosure on their home by a Bank of America affiliate called ReconTrust. By July 2012, the OAG became involved. It sought to stop the foreclosure because Utah law only permitted Utah-based persons or entities to serve as the trustee under a deed of trust. ReconTrust was not a Utah-based entity. Although the Bells initially filed the lawsuit, the OAG became involved in order to protect many more Utahans from foreclosure by ReconTrust. By August 2012, Swallow was involved in managing the day-to-day matters of the lawsuit (UHR, 2014, pp. 105-107).

On August 17, 2012, the Bells hosted a campaign fundraiser for Swallow. While at the fundraiser, Swallow came to realize that the hosts were the same people with whom the OAG was involved in litigation. Upon making this connection, the Swallow campaign became anxious by the serious conflict of interest allegations possibly raised by this connection. As the Committee notes, Swallow could have publicly disclosed his mistake, refunded the money for the fundraiser, and recused himself from further

involvement in the Bell litigation. However, he did not do either of these things (UHR, 2014, pp. 108-109).

Swallow allegedly accepted the benefits from the fundraiser while, simultaneously, being involved in negotiations with the bank to settle the Bells' litigation. Apparently, the campaign covertly accepted financial support from the Bells after the fundraiser. Around the time of the fundraiser, Mr. Bell donated \$5,000. Initially the campaign returned this money to him, but then it helped him redirect it to the campaign through alternative sources. Such alternative sources required no disclosure of the source. Evidence further shows that Swallow and Mr. Bell remained in contact up through the November 2012 election (UHR, 2014, pp. 110, 114).

In the meantime, Swallow appeared to use his position in the OAG to help the Bells get a favorable settlement in their case. Evidence shows that Swallow suggested to Bank of America that the OAG would drop its own lawsuit on behalf of Utah citizens, generally, in exchange for the Bank's settling with the Bells (UHR, 2014, p. 115). Swallow allegedly told an assistant attorney general in the OAG that he possibly gave a Bank of America lobbyist the impression that the state would settle their case if the Bells received a loan modification (Harvey, 2014a, p. A6). Thus, Swallow's actions undermined "the state's broader legal position in favor of Utah homeowners and was made to obtain a private benefit for a campaign contributor" (UHR, 2014, p. 11).

Mark Shurtleff, then Attorney General of Utah, also played a role in the lawsuit dismissal that affected many Utah homeowners. As substantiated by an email that Shurtleff sent to another attorney in the OAG, he officially terminated the State's lawsuit in order to save Swallow the embarrassment resulting from his ethical dilemma with the

Bells. This evidence contradicts what he declared publicly—that he terminated the case in order to conserve state resources (UHR, 2014, pp. 118-119). Further evidence also shows that Shurtleff interviewed for a job with a law firm that represents Bank of America just 2 months before he terminated the lawsuit with Bank of America (Harvey, 2014a, p. A6). The law firm subsequently hired Shurtleff for the job.

The termination of the lawsuit officially occurred just days before Shurtleff left office and began his new job. Shurtleff allegedly overruled other attorneys on the case by scratching out their names and writing in his own name on the paperwork. According to the evidence, he also failed, initially, to let them know of his decision (UHR, 2014, pp. 117-118). These other attorneys in the OAG felt that the Bank of America lawsuit was the strongest case to prove that ReconTrust had been illegally foreclosing on thousands of Utah homes. Concerning the dismissal of the case, one estimate put the possible loss to Utah homeowners at tens of millions of dollars (Harvey, 2014a, p. A6).

It is unclear whether it was Shurtleff or Swallow that was most responsible for the termination of the lawsuit. However, it appeared that both had stakes in assisting the Bells but seeing the larger lawsuit go away. It is possible that both collaborated to make this happen. Amongst other reasons, it is reasonable to assume that Shurtleff did want to spare Swallow embarrassment in order to ensure a Swallow campaign victory. After all, Shurtleff had brought Swallow into the OAG to take over as the AG (Cassell & Wikstrom, 2014, p. 25). However, the results of such political tactics not only contributed to further loss of confidence in public institutions but likely affected, negatively, the status of thousands of Utah homeowners.

The Tampering of Evidence

Upon investigating John Swallow, the Committee discovered that a large amount of Swallow's emails was missing from the OAG's servers. In addition, it discovered that other data, or data devices, belonging to Swallow had also gone missing. In the meantime, the Committee began to question the veracity of certain documents provided by Swallow. These documents appeared to be inauthentic and created after the events that they described. Overtime, it appeared that the suspicious data loss and fabrication of evidence correlated with a meeting of Swallow and Jeremy Johnson. This meeting took place, reportedly, on April 30, 2012 at Krispy Kreme Doughnuts (UHR, 2014, p. 122). In order to understand the significance of this meeting to the aforementioned data issues, a bit more background is required.

In 2010, Johnson asked Swallow for advice concerning an investigation that Johnson was facing at the hands of the Federal Trade Commission (FTC). Johnson and his I Works business were under investigation for alleged illegal marketing and billing practices. Swallow referred Johnson to Richard Rawle to see if Rawle could provide some lobbying assistance with the problem. Rawle's political connections included individuals who supposedly had ties to then-Senate Majority Leader, Harry Reid (UHR, 2014, pp. 131-132).

In a 2010 email to Johnson, Swallow explained that he had spoken to Rawle about contacting an associate of Rawle's whom he described as "Harry Reid's guy." Swallow, a former lobbyist himself, then coached Johnson on what he should say to Reid's "guy" and how he should describe his I Works business (UHR, 2014, p. 132). Ultimately, Johnson paid Rawle \$250,000 for assistance in convincing the federal government to

drop its investigation. It is unknown what meetings took place, if any, with the FTC or Senator Reid's people. However, the money paid did not bring to pass the intended result because, in June 2011, the FTC brought a lawsuit against Johnson anyway (UHR, 2014, pp. 133-134).

Around 2010, Swallow did some consulting work for Rawle's business venture, the Chaparral Limestone & Cement Company. Rawle compensated Swallow \$23,500 out of the funds that Johnson paid to Rawle for lobbying assistance (UHR, 2014, p. 135). Swallow has insisted that this was payment for the Chaparral consulting work and not a "finder's fee" for the FTC lobbying referral (UHR, 2014, p. 13). Eventually, Johnson began to "turn up the heat" on Swallow, insisting that he get some sort of refund of the \$250,000 paid to Rawle (UHR, 2014, p. 13).

At Johnson's request, he and Swallow met at a Krispy Kreme shop in Orem, Utah to discuss their options. Unbeknownst at the time to Swallow, Johnson secretly recorded the conversation. Johnson threatened that if Swallow failed to recover the refund, he might implicate Swallow in an alleged effort to bribe Senator Harry Reid. In other words, it would appear Senator Reid received a bribe to help drop a federal investigation of Johnson's I Works business (Canham et al., 2014, p. A4). Johnson also suggested that he might implicate Swallow in a bribery scheme—the idea being that Swallow was paid to provide Johnson with a favorable legal opinion regarding online poker in Utah. Either way, the meeting appeared to be a shakedown of Swallow. Being in the middle of a statewide campaign, Swallow appeared frightened by the threats emanating from this meeting (UHR, 2014, pp. 138,144).

The Utah House of Representatives Special Investigative Committee concluded

that Swallow attempted to deal with those threats by fabricating documentation and eliminating data. For example, the Committee demanded through a subpoena documents related to his dealings with Rawle and the Chaparral project. In response, Swallow provided a number of entries in a day planner as well as two invoices—all purporting to substantiate the work he performed on the project. However, suspicion arose upon seeing that the invoices lacked dates. Furthermore, the day planner entries indicated conflicting hours worked compared to official timesheets of the OAG. After much analysis and probing questions, Swallow admitted, through his attorneys, the creation of the documents after the fact (Gehrke, 2014b, p. A4; UHR, 2014, pp. 148, 150).

The Committee uncovered two other actions of Swallow's that, apparently, were intended to create a false record pertaining to his work with Rawle. First, after the Krispy Kreme meeting, Swallow returned the \$23,500 that Rawle had paid him and requested money not originally tied to Jeremy Johnson. Thus, he hoped to provide himself the credibility that he received money for his consulting work and not for bringing Johnson to Rawle in order to fix the FTC dilemma (UHR, 2014, p. 153). Second, Swallow and his attorney drafted a declaration supporting Swallow's version of events pertaining to Chaparral and the FTC work. While Rawle was on his deathbed, they had him sign the declaration. In order to avoid any suspicion, Swallow allegedly falsely claimed that Rawle drafted the declaration. According to the Committee, Swallow acted to mislead investigators and the public regarding the reliability and accuracy of documentation (UHR, 2014, pp. 155-156).

At or around the same time as the events described above, Swallow allegedly eliminated pertinent data. In September 2013, personnel of the OAG informed the

Committee that a large volume of Swallow's email from 2010 was missing. After some investigation, Swallow publicly declared that the loss of email resulted from a statewide migration of State email accounts from one service provider to another (UHR, 2014, pp. 159-160). The Committee spent considerable time and effort investigating this assertion, including utilizing the services of a forensic expert. Upon obtaining a sworn declaration as well as uncovering other evidence, the Committee concluded that Swallow's email had not been lost in the statewide migration (UHR, 2014, p. 163). Faced with evidence that directly contradicted his own statements about what caused the email loss, Swallow resigned from office on November 21, 2013 (UHR, 2014, p. 15).

The evidence that surfaced showed that no systemic malfunction was responsible for the email loss, leaving manual deletion as the sole possibility. The evidence further suggested that Swallow had purposely deleted the email (UHR, 2014, p. 166).

Accidental deletion of such a large volume of email would have required "an implausible series of actions" (UHR, 2014, p. 15). After he resigned, Swallow reversed course by acknowledging that he knew all along that the data was not lost in the migration, but was already missing by the "Summer of 2012" (UHR, 2014, p. 15).

The Committee's investigation found additional problems with data, or data devices, belonging to Swallow. First, at the urging of Jeremy Johnson, Swallow purchased a prepaid cellular phone so that he and Johnson could communicate without leaving a digital record. Second, Swallow admitted in sworn testimony that he deleted emails from his personal email account around the same time that he deleted the large volume of email from his work account. Third, while responding to a Committee subpoena, OAG personnel discovered that Swallow's electronic calendars for 2010 and

2011 were missing entries (UHR, 2014, pp. 158, 168-169). Lastly, in referring to the long list of Swallow's digital devices, the Committee is not aware of a single device whose data did not have some sort of malfunction following the Krispy Kreme meeting. These digital devices included a home computer, several OAG computers, a personal cell phone, two OAG cell phones, an OAG iPad, a campaign iPad, and an external hard drive (UHR, 2014, p. 156).

The Committee concluded that Swallow's problems pertaining to data was not an accident. In fact, it suggested that they were part of a larger effort to evade and obstruct any future investigation into his conduct. While the Committee lacks sufficient evidence to prove that all data malfunctions/losses were intentional, the combination of these strongly suggested that they were not coincidental (UHR, 2014, pp. 16, 157). The Committee spent considerable time and resources "cutting through the fog of the false and misleading stories" that Swallow and his representatives floated (UHR, 2014, p. 16). As a result, the Committee's work was frustrated and delayed.

Swallow's Relationship to Marc Sessions Jenson

In addition to the issues previously discussed, the Committee investigated other allegations of wrongdoing. However, the Committee either found no evidence of wrongdoing or found insufficient justification, at the time, for continuing to invest resources and use taxpayer dollars. The allegations by Marc Sessions Jenson fall into the latter category (UHR, 2014, p. 181). However, because these allegations have been widely reported in the press, and may shed further light on Swallow's past relationships and actions, this section briefly addresses them.

In May 2013, a Utah businessperson, Marc Sessions Jenson, alleged that Swallow participated in a conspiracy to extort funds from him. Jenson alleged that under the leadership of then-Attorney General, Mark Shurtleff, and with Swallow's participation, the OAG pursued him for prosecution. They then, apparently, sought to extort hundreds of thousands of dollars in cash and favors from him. He further alleged that when he stopped making payments, the OAG retaliated by revoking a plea deal that had been agreed upon, sending him to prison for 10 years. Ultimately, the OAG charged Jenson with fraud through his efforts to induce a group of investors to purchase memberships in a resort development project in Beaver, Utah (UHR, 2014, pp. 184-185, 188).

Jenson's primary business, for a time, was making short-term bridge loans to business ventures. In 2004, one of his investors accused Jenson of deceptive business practices and pursued a successful civil suit against him. Shortly thereafter, the OAG pursued criminal charges against him. In communicating with Shurtleff to settle the criminal case, Jenson alleged that Shurtleff directed him to give money to Shurtleff's associate, Tim Lawson, to delay the criminal charges. Under these terms, he claimed to have paid over \$200,000 to Lawson.

He further claimed that, in 2007, Swallow (before Swallow joined the OAG in 2009) began to help him resolve the charges. Apparently, Swallow led Jenson to believe that he could be helpful to him as a confidant of Shurtleff's and as Shurtleff's likely successor. At the time, Jenson was developing a luxury ski resort, and he claimed to have given Swallow an interest in the project in return for Swallow's assistance. He declared that, in 2008, Swallow and Lawson assisted him in obtaining a plea-in-abeyance agreement. This agreement helped him to avoid jail time as long as he abided by the

agreement's terms and committed no further crimes (UHR, 2014, pp. 183-184).

After reaching the agreement, Jenson moved to Newport Beach, California. He alleged that Shurtleff and Swallow visited him there a few times in 2009 for vacationing and for fundraising. The Committee confirmed that both Shurtleff and Swallow did visit him in May 2009 (Swallow made two other trips down there without Shurtleff in July 2009). This trip included overnight rentals, expensive golf outings, meals, and massages, all paid for by Jenson (Gehrke, 2014b, p. A4; UHR, 2014, p. 186).

The primary purpose of the trip for Shurtleff was fundraising. Because Swallow was a private citizen at the time, his acceptance of such gifts was not contrary to law. However, Jenson alleged that, while there, Swallow and Shurtleff demanded \$2 million dollars from him. He further alleged that when he refused and stopped making payments to Lawson, the OAG improperly filed fraud charges against him. The plea-in-abeyance agreement was, thus, revoked (UHR, 2014, pp. 184-186).

While certain claims made by Jenson are merely allegations at this point, the Committee has reached certain conclusions. First, both Shurtleff and Swallow's roles in negotiating Jenson's original plea deal in 2008 were unusual. Normally, individual line attorneys responsible for prosecuting the case would handle the negotiation of the resolution of a criminal case. As the AG, Shurtleff's personal involvement at that point with Jenson was not typical.

Furthermore, Swallow, who was in private practice at the time, apparently had a presence during Jenson's plea negotiations as well. Yet he was not Jenson's attorney, nor was he yet employed by the OAG. Rather, he was, at the time, a fundraiser for Shurtleff. The Committee found that the involvement in criminal proceedings of a fundraiser was

improper. Such actions contributed to the unhealthy notion among the citizens of the state that the administration of justice was fraught with politics (UHR, 2014, pp. 189-190).

Second, the Committee discovered that Shurtleff and, particularly, Swallow failed to adhere to OAG conflict of interest policy. According to the evidence uncovered, Swallow was involved in negotiating Jenson's plea deal while in private practice. He apparently had further interactions with Jenson as his guest in Newport Beach in 2009. After joining the OAG, he was then very much involved in the decision to revoke Jenson's plea deal and prosecute new charges against him in 2010. The Committee concluded that Swallow failed to recuse himself on the matter because he wanted to protect his and Shurtleff's earlier involvement with Jenson (UHR, 2014, pp. 189-190).

The Culture of Power

This section identifies key components of a culture of power that contributed to the allegations of corruption in the Swallow case. These components then become further refined in Chapter 4 through inductive propositions. This section points to the overreach of authority, as previously outlined, by Swallow and Shurtleff in the OAG. It further discusses Swallow's campaign as well as other elements of pay-to-play previously described. Finally, it touches upon key macro influences to the case.

As leaders of the OAG, both Swallow and Shurtleff used their political discretion to make certain decisions. However, such discretion did not appear to serve the public or the needs of their fellow OAG employees. Their abrupt dismissal of the 2012 foreclosure case went against the welfare of thousands of Utah homeowners. In doing so, they

further undermined the legal recommendations of their fellow attorneys in the OAG (Harvey, 2014a, p. A6). Such behavior appeared to form a pattern. When Swallow and Shurtleff attended the meeting with online poker industry representatives to discuss the ramifications of online poker processing, they chose not to involve the legal experts on gambling law in the OAG (UHR, 2014, p.54). Furthermore, by failing to properly recuse themselves at important junctures of the Marc Jensen case, both men appeared to breach the rules and policy of the OAG (UHR, 2014, pp.189-190).

Swallow and Shurtleff possessed the most authority and power in the OAG. Such power comes with the territory of leadership (Sabl, 2002). However, the problem was the apparent *manner* in which they chose to utilize their power, as when AG Shurtleff used his discretion to dismiss the 2012 foreclosure lawsuit. He appeared to have made this decision based on the self-interests of OAG leadership and not out of concern for the public (D.J. Thomas, interview, April 14, 2015). Both men's organizational actions—as documented throughout the House Report—appeared to satisfy only the needs of themselves and their friends rather than satisfy the demands of justice (R.A. Donaldson, interview, April 9, 2015). Eventually, such governance resulted in distrust among fellow employees in the OAG (Cassell & Wikstrom, 2014, p. 42).

Another organizational entity that justified the means to achieve a certain end goal was Swallow's campaign. The manner by which it raised funds from payday companies appeared to promote a culture of secrecy and private interests over that of transparency. Such secrecy may have produced a state of deindividuation, which is where individuals feel released from normal, internal inhibitions (Dobel, 1999). While some could argue that no actual rules were broken, the use of campaign loopholes appeared calculated

rather than in the public interest (UHR, 2014, pp. 76-79, 83, 87). Furthermore, allegedly launching secret attacks on campaign opponents and payday lending opponents raised legitimate questions of fairness and of Swallow's character (UHR, 2014, pp. 91-92, 96, 98). In the end, actions of the Swallow campaign reflected the insatiable desire to win and to use whatever means necessary to achieve that end (R.A. Donaldson, interview, April 9, 2015).

Another common theme of this case is the influence of wealth. Nearly all external parties documented in the House Report had a certain degree of wealth to impart in exchange for certain favors. From 2008 to 2010, Jeremy Johnson gave large amounts of money to the Shurtleff campaign and, allegedly, shared his material lifestyle with Swallow and Shurtleff. In exchange for these benefits, evidence indicates that he received extraordinary access to the OAG as well as to other local politicians (UHR, 2014, pp. 46, 50).

In 2012, Tim and Jennifer Bell voluntarily hosted a "lavish" fundraiser for Swallow after they had initiated a foreclosure lawsuit through the OAG. In exchange, they allegedly received special treatment by Swallow pertaining to their case as well as direct access to him. Such access became evident through the exchange of text messages, by both parties, which lasted through the November 2012 election (UHR, 2014, pp. 108, 111, 114). Marc Jenson received what many then considered a very lenient plea deal arranged, largely, by Shurtleff in 2008. The following year he reportedly hosted both Shurtleff and Swallow at his Newport Beach condominium and paid for all of their recreational activities (Cassell & Wickstrom 2014, p. 15; UHR, 2014, pp. 186). Indeed, such pay-to-play exchanges comprised a clear pattern overtime.

The wealthy have the ability to put ideas into motion that may lack either sufficient merit or the full consensus of those affected by them (Barton & Yang, 2000; Carnoy, 1984). As the previous examples illustrate, wealth and status likely dictated the discretion used by the attorneys general. Thus, money is a significant factor in a culture of power. However, material interests are merely a piece of the puzzle (see Roman, 2014). One must consider other factors to understand contextual influences of a culture of power. The next section examines the macro influences to this case.

Macro Factors

A significant factor affecting ethical conduct among elected politicians is campaign finance. As touched upon in Chapter 2, the amount and influence of money in modern elections has become an increasingly challenging issue. As James Bowman and Jonathan West write, “as long as privately funded political campaigns continue, the biggest source of corruption is legal” (Bowman & West, 2015, p. 177). Currently, Utah state government has no campaign finance limits. Furthermore, it has no limits on corporate contributions to political candidates. For these reasons, people often refer to Utah as the “wild west” of money and politics (Fabrizio, Gehrke, Gill, Grimmett, & Piatt, 2014).

The state of Utah has worked to ensure that there is more transparent campaign disclosure in recent years (Gehrke, 2014c). However, if winning is the ultimate goal—and lots of money is perceived as necessary to finance and market a successful campaign—then donors who have the same financial means as Jeremy Johnson had are usually going to be sought out and cultivated. The Supreme Court’s 2010 decision in

Citizen's United v. FEC more recently allowed for unlimited donations from corporations, creating legitimate concerns for the democratic process (Levitt, 2010). Some of these concerns include election victories for wealthy, yet underqualified, candidates. Other concerns include policy outcomes, influenced by campaign money, which serve only private interests (see Rose-Ackerman, 1999). Such problems may very well lead to corrupt behavior at all levels of government. However, the larger social and political culture facilitates such outcomes.

As discussed in Chapter 1, the one-party-dominant state may pose formidable challenges to ethical conduct. While such domination may avoid political gridlock, such governance can be equally problematic by leading to overreach (Richardson, 2013). Overreach may occur in several ways; however, for purposes of ethical behavior, it can lead to misconduct by ignoring the demands of accountability. A political environment lacking sharp checks and balances fosters a hubris that can result in complacency. Such complacency may not only lead to corrupt behavior but also backlash from minority parties and interests (Richardson, 2013).

In Utah, former US Senator, Bob Bennett, a Republican himself, asserted that a stronger minority party would be beneficial—not only for the state, but for the GOP. He has stated that Utah's long one-party domination has led to a one-party mentality, increasing the likelihood of corruption. He specifically pointed to the Swallow-Shurtleff allegations as a case in point. He further stated that had the Democratic Party put forth a viable candidate to run for the AG's office, it would have served as a check on Republican candidate quality (Canham, 2014b). Ultimately, Bennett is pointing to a powerful majority with not only a monopoly on ideas and processes but also an

accountability problem.

A discussion of Utah's ideological landscape is not complete without also considering the dominant religious influence. Latter Day Saints (LDS), or Mormons, make up the majority of those who claim religious affiliation in the state. Mormons also happen to hold many political leadership positions, particularly in the state legislature (Meyers, 2012). At its core, the LDS church is a Christian faith that directs its followers to live better lives, according to basic Christian values. However, its influence is significant for two reasons. First, for approximately 40 years, Mormonism has drawn a close alignment with the Republican Party. Secondly, Mormonism itself generates close ties among its followers. In other words, close bonds typically bind Mormons together by high degrees of interpersonal trust and loyalty (Campbell, Green, & Monson, 2014).

According to the Pew U.S. Religious Landscape Survey, 65% of Mormons identify as, or lean towards, the Republican Party. Only 22% of Mormons identify as Democrats. As would be expected, such strong support for the Republican Party translates to strong support for Republican candidates at the polls. Regarding ideological self-identification, 60% of Mormons identify as conservative, while only 6% describe themselves as liberal. Furthermore, Mormons heavily favor the Tea Party, the conservative movement that formed in the wake of Barak Obama's election to the presidency in 2008 (Campbell et al., 2014, pp. 78, 80).

It is important to understand that Mormons have not always heavily favored the Republican Party, nor is every Mormon a Republican today. However, since the election of Ronald Reagan, Mormons have overwhelmingly supported the Republican Party. This partisan imbalance is quite strong today (Campbell et al., 2014, pp. 84, 86). Interestingly

enough “Mormons receive very little political stimuli through formal Church channels, as their worship meetings are mostly devoid of any partisan content. Instead, their partisan cohesiveness is reinforced through the social networks” (Campbell et al., 2014, p. 78).

Mormons live in a tight-knit, insular subculture. In addition to sharing conservative social values, this subculture sets itself apart from evolving social norms (Gehrke, 2014f). Uslander and Conley (2003) argue that people with strong ethnic identifications, which associate primarily with people of their own kind, will generate a *particularized* trust among themselves. Such trust is comprised of “strong” ties that generally results in members of a particular group sticking to their own kind. Although the idea of Mormons comprising their own ethnic group can certainly be disputed, high levels of internal solidarity characterize contemporary Mormons. If the idea of ethnicity is a sense of collective belonging, Mormons definitely qualify. Mormonism is more than just another religion—it is a “tribe” (Campbell et al., 2014, pp. 26, 29).

The potential problem that Mormonism poses in Utah is an uneven balance of power. Such influence has the potential to co-opt political discretion in favor of certain ideas and ideologies (Blyth, 2002). In Utah, Mormonism has long been perceived as possessing a hegemonic influence not only culturally, but politically and economically as well (Danforth, 1980). Mormonism’s close alignment with the Republican Party creates an ideology that potentially colors values, beliefs, and ways of acting in state and local government. In particular, such influence may pervade the legislature, which creates the laws (Davidson, 2012).

Conclusion

Swallow appeared to behave improperly regarding his relationships with donors to the AG, such as Jeremy Johnson and the Bells. Actions of the Swallow campaign appeared to have been unethical regarding the collection and use of campaign funds. It further appeared that Swallow purposely tampered with evidence in order to cover up his involvement in these matters. Although not a member of the OAG during much of the controversy surrounding Marc Jenson, Swallow's actions surrounding the Jenson case remain questionable as well. Finally, evidence indicates that Swallow and Shurtleff misused their power within the OAG.

A culture of accountability is paramount to serving the public interest. Potential recommendations to establish such a culture will be further discussed in Chapters 4 and 5. Accountability is necessary to maintain order and coordination between individuals with diverse interests. However, interpersonal, social, and structural contingencies, all of which stem from particular socio-cultural contexts, may co-opt accountability (Gelfand, Lim, & Raver, 2004). Per the Swallow case, macro contingencies, such as campaign finance, partisanship, and religious influence, directly and indirectly supplemented a culture of power rather than accountability. These contexts were strong determinants of behavior, as will be shown in Chapter 4 (Frederickson & Walling, 2001).

Chapter 4 analyzes the way in which the aforementioned components of a culture of power contributed to corrupt behavior. The ensuing analysis increases understanding of a nature of corruption through propositions. For example, the influence of money appeared to be an obvious factor in negatively influencing John Swallow's actions. However, rather than just focusing on that particular connection, this case study looks

beyond obvious connections discussed in relation to official reports. In particular, it seeks to understand the motivational constructs behind corrupt acts as well as the role of cultural and social environments (Roman & Miller, 2014). Chapter 4 addresses these findings.

CHAPTER 4

CASE STUDY FINDINGS

What key components of a culture of power contribute to corrupt behavior?

Beginning with the key components identified in Chapter 4, three inductive propositions (see Table 4.1) resulted from the analysis of all data collected. These propositions fall into three broad domains: character, institutional environment, and social environment. This chapter discusses many details of the case introduced in Chapter 3. However, this chapter distinguishes the details by applying them to propositions.

Table 4.1

Summary of Propositions

Domain	Propositions
Character	Prioritizing material gains and status concerns of the public official and his/her social network leads to corruption
Institutional Environment	Powers generated through the campaign finance system as well as bureaucracy contributes to corruption
Social Environment	Relationships encourage trust and loyalty between the public official and his/her social network, often distorting judgment and leading to corruption

Proposition 1

Prioritizing material gains and status concerns of the public official and his/her social network leads to corruption. This finding, like Proposition 3, draws from relationships of a particular environment. However, Proposition 1 focuses more on intent. Questions of intent focus on the individual level, namely that of Swallow or Shurtleff. However, the ethos of their social network also contributed to the pursuit of material and status gains (Preston, 2001). In other words, while this finding focuses on the actual priorities of public officials, it also reflects the priorities of their friends and associates as well.

The basis for Proposition 1 was the desire to win—whether it was through gaining affluence in a material way or enhancing one’s status through winning an election. Such a mentality stems from the ethic of competitive individualism (Morgan, 1986). The need to balance such self-interest with personal responsibility, as well as the need to serve the public interest, challenges the character of public officials (Dobel, 1999). In the case of Swallow and Shurtleff, the environment and the ethical standards of those with whom they wished to identify shaped both of them (D.A. Tanner, interview, March 25, 2015).

Swallow and his campaign staff engaged in strategies that helped him achieve victory while “overlooking some of the means that they were doing to get there” (D.A. Tanner, interview, March 25, 2015). They apparently engaged in trickery to obscure, from public view, the sources of hundreds of thousands of dollars. Furthermore, the campaign staff allegedly found ways to outright block from the public’s view substantial donor funds that the public could question (UHR, 2014, pp. 7-8, 61). The hidden campaign funds came largely from payday lenders and groups that frequently clash with

government regulators (Confessore, 2014). The payday industry frequently comes under substantial criticism for preying on the poor and charging “unconscionably high interest rates” (UHR, 2014, p. 68).

Further evidence shows that Swallow and his campaign staff went to extreme measures to win while simultaneously trying to avoid the appearance of wrongdoing. Allegedly, such measures included using substantial sums of hidden money to attack Sean Reyes. The negative nature of the anti-Reyes ads attracted significant attention, and people began to question who had authorized them. In response, Swallow’s campaign manager asserted that the Swallow campaign “had nothing to do with those ads” (UHR, 2014, p. 92). She further said that the campaign was “proud of the fact that we’ve been running a positive campaign from the beginning” (UHR, 2014, p. 92).

The campaign also created a push poll to oppose Reyes. The questions, however, were quite negative in nature. For example, one question asked, “would it influence your vote if you knew that Sean Reyes vandalized as a teenager, or called Mexicans brown people?” (UHR, 2014, p. 93). Although the campaign’s chief consultant, Jason Powers, allegedly devised the push poll, Swallow acquiesced to it (UHR, 2014, p. 93). Such tactics reflected the true intent of Swallow and his campaign staff, namely to win at all costs.

The campaign also, allegedly, used payday money to attack Representative Brad Daw (R), who served as a member of the Utah House of Representatives. The payday industry targeted Daw because he had promoted measures to regulate the industry’s activities. Although the legislation that he proposed had been defeated, it generated attention from Utah’s payday industry, especially its leader, Richard Rawle. Evidence

uncovered from Swallow's personal hard drive showed that Swallow was personally involved, along with Jason Powers, in the effort to oppose Daw (UHR, 2014, pp. 95-96). At one point, Swallow told a campaign staffer that, "it's important to Richard to oppose Brad Daw" (UHR, 2014, p. 96).

Using the untraceable money, Powers sent anti-Daw mailers to voters in Daw's district as well as to all members of the Legislature. The mailers showed a picture of Daw next to President Obama, suggesting that Daw created legislation similar to "ObamaCare." On the mailers, Swallow's campaign dubbed Daw's previous legislation as "DawCare" (UHR, 2014, p. 97). After Powers sent out the mailers, Daw crossed paths with Swallow outside of the House chamber in February or March 2012. Daw had the mailer with him and showed it to Swallow. Swallow, referring to the mailer, then made the comment, "this really offends me" (UHR, 2014, pp. 96, 98).

Based on my own experience in the local culture, Swallow's status as a Republican and member of the LDS church likely compensated for a lack of virtue in his actions. The section addressing Proposition 3 discusses this idea further. By operating in a partisan environment, it is possible that Swallow's numerous supporters created within him a sense of infallibility (R.A. Donaldson, interview, April 9, 2015). Such infallibility likely stemmed from the local religious culture, which fosters a tendency to defer to authority (see Taber, 1993). In such cases, a state of deindividuation can result, causing individuals to feel released from normal moral inhibitions (Dobel, 1999).

Such a state is not unlike the agentic shift that Milgram described taking place in his research subjects (Milgram, 1974). Deindividuation is especially prevalent when individuals or groups act in secrecy. When a veil of secrecy covers important

information, public integrity and responsibility erode. Because accountability ceases to exist under such circumstances, personal wants overwhelm personal responsibility in office, and there is a tendency to demonize opponents (Dobel, 1999; Rubenstein, 2007). The Swallow campaign's strategies and attacks on opponents exemplified such behavior.

Evidence further indicates that Swallow used his position to create wealth, for himself and certain supporters. Many of the financial contributors to Swallow's campaign were companies and individuals from the telemarketing and personal wealth building industries (UHR, 2014, p. 20). According to one interviewee familiar with the investigation, many of the businesses courted by Swallow and Shurtleff were involved in "questionable business practices" (D.A. Tanner, interview, March 25). However, Swallow solicited donations from these businesses to his and Shurtleff's campaigns. He gave the donors assurance that their businesses would receive more favorable treatment from the AGs than they had received in prior dealings with the Utah Division of Consumer Protection (UHR, 2014, p. 20). Regarding such pay-to-play schemes, one interviewee said the following:

There were businesses that would hold fundraisers for Swallow and Shurtleff and would say 'it is expected that we all have to pony up and then we'll get treated nicely, if we have any problems, with the Attorney General's office'. It's like protection.... protection contributions. And they were very open about it, that it was kind of like a shakedown. (D.A. Tanner, interview, March 25, 2015)

Both Swallow and Shurtleff involved themselves in private interests that compromised their ability to serve the public interest. Perhaps nothing exemplified such behavior more than Swallow initially condoning the processing of online gambling (for a friend and campaign contributor) when it was not within state law (UHR, 2014, pp. 57, 59). Neither Swallow nor Shurtleff could "resist the charms and lifestyles of shady,

wealthy people wanting favors” (Pignanelli & Webb, 2014). Such relationships entangled them in a frenzy of backbiting and petty behavior that centered on money.

Allegedly, one of the reasons that Shurtleff demanded money from Jenson in his second visit to California was to try to secure money for Darl McBride. McBride was a local businessperson who, because of an investment deal that did not work out, filed a lawsuit against Mark Robbins. Robbins, a fellow businessperson, was a major supporter and campaign contributor of Shurtleff. McBride alleged that Robbins owed him money. He further set up a website, disparaging Robbin’s reputation. In a meeting, Shurtleff asked McBride how he could help resolve the situation. In response, McBride said that he needed \$2,000,000. Shurtleff then told McBride that he could get him \$2,000,000 from Jenson. McBride secretly recorded the conversation and then took the recording to the FBI (Cassell & Wikstrom, 2014, p.26; J.T. Katsopolis, interview, March 5, 2015).

The people that Swallow and Shurtleff associated with likely encouraged their misconduct. Public officials, and those running for office, may not always control who donates to their campaigns. However, both men appeared to have sought out donations from certain businesses and individuals with questionable business practices—just as much as those donors sought out the AGs for protection (Gehrke, 2014e; UHR, 2014, pp. 20, 46, 69-71). Such relationships reflected the character of their social network—a network preoccupied with increasing one’s financial means and elevating one’s status. The nature of such a network poses risk to the public official because network players do not seek the interests of the public at large, including that of the public official (Reich, 2011). At a certain point, however, public officials need to be responsible for their own choices and the consequences that follow.

According to the evidence, Swallow was not forthright during the Committee's investigation. He allegedly lied on several occasions during the investigation (D.J. Thompson, interview, April 14, 2015). Evidence further indicates that he fabricated invoices and day planner entries to create the illusion of work rendered. He also, allegedly, destroyed evidence by deleting data and compromising software devices (UHR, 2014, pp. 12, 15). He "bobbled and weaved around the truth. And, he did so while assuring the public that he was fully cooperating with the Committee's inquiry" (UHR, 2014, p. 152). Regarding Swallow's reputation, one interviewee said the following:

Swallow has run for Congress twice, I think, and he did some real dirty tricks during those campaigns that really angered his opponents in the Party, and I think he had the reputation within the Party of being a corrupt and dirty tricks player, willing to do anything to win an election. So, I think what really strikes me about him is kind of his lack of character. (J.T. Katsopolis, interview, March 5, 2015)

Swallow's purchase of the prepaid phone exemplified the need to hide his misconduct. According to the evidence, Johnson recommended to Swallow that he buy a phone that was untraceable (UHR, 2014, p. 157). The Committee notes that "his purchase and apparent use of the phone show his awareness of the potential evidentiary impact of his digital footprint, and are consistent with an effort to hide conduct that Mr. Swallow knew was improper" (UHR, 2014, p. 159). Based on advice from Jason Powers, a campaign staffer paid for the phone in cash so that it would be untraceable to the campaign (UHR, 2014, p. 158).

Drawing upon Swallow's relationship with Jeremy Johnson, Swallow not only prioritized money but also displayed questionable judgment. In early 2010, the Criminal Division Chief of the OAG, Kirk Torgensen, warned Swallow to stay away from

Johnson. At the time, Torgensen knew that Johnson and his business were under federal investigation. In March 2010, Swallow emailed Torgensen, telling him that Jeremy Johnson was coming to the capitol to meet his state representative. He explained that he and Shurtleff had really checked Johnson out, noting that Johnson had given a lot of money to the Utah governor, Gary Herbert (UHR, 2014, p. 50). Torgensen further warned Swallow not to get too close to him, noting that “this guy may be the greatest” but there “is a buzz out there about him” (UHR, 2014, p. 51). Ultimately, Swallow did not follow Torgensen’s advice.

The motivation for Shurtleff’s choices is questionable as well. Scratching out the names of the line attorneys in the Bank of America case exemplified the elevating of one’s personal needs above that of the public. He did this to preserve the image of Swallow as well as to, possibly, protect his own job prospects (UHR, 2014, pp. 118-119; Harvey, 2014a, A4). Some believe that Shurtleff’s priorities started out more virtuous and then, throughout his 12 years as AG, became narrower and less benevolent (R.A. Donaldson, interview, April 9, 2015). One interviewee described Shurtleff as “a pretty bright guy” who “became pretty power hungry, ambitious, and that clouded his decision making” (J.T. Katsopolis, interview, March 5, 2015).

In sum, when public officials prioritize winning and enriching themselves and their associates, corrupt behavior is likely to result. Swallow and Shurtleff’s individual actions exemplified such behavior. However, certain friends and associates also fostered and encouraged such behavior. The priorities of their network centered on preserving the interests of a wealthy class (or those aspiring to get wealthy) and using a partisan ideology (Swallow’s campaign attacking two fellow Republicans) to weaken those that

threatened their interests. In other words, instead of focusing on doing the right thing, “the goal was to win” (R.A. Donaldson, interview, April 9, 2015). In this case, lack of character, or of virtuous behavior, is a common theme in all three propositions.

Proposition 2

Powers generated through the campaign finance system as well as bureaucracy contributes to corruption. Proposition 2 centers on two political structures: the campaign system’s dependence on raising large sums of money, and the structure of the OAG. While neither structure caused corruption in this case, each exerted considerable influence in shaping the motivations of all of those involved. Of the two structures, the influence from raising campaign money was the most significant. Both structures, however, are significant in generating power that influenced the motivations of Swallow and Shurtleff—within both their office environment and the larger environment.

The prime example of campaign money influence is of Richard Rawle and the payday industry. After soliciting large sums of money from those involved in the industry, Swallow told his industry contacts (but not the electorate) “I look forward to being in a position to help the industry as an AG following the 2012 elections” (UHR, 2014, p. 7). Such quid pro quo transactions undermine democratic values and principles. However, the larger threat from money in the system goes beyond quid pro quo deals. The larger threat pertains to issues of equal access and equal influence (Strauss, 1994).

In June 2011, well before Swallow announced his candidacy for AG, he made a fundraising trip to Missouri. The purpose was to meet with executives from companies that recruit payday borrowers over the internet. Swallow’s connections to the Utah

payday industry not only encouraged the support of Midwestern payday officials, but also helped finance the trip. Rawle funded the trip with cash that he provided to Swallow on a prepaid debit card (UHR, 2014, 72). Accepting and not reporting such cash became part of the criminal charges filed against Swallow in July 2014 (Canham et al., 2014).

Rawle opened a Netspend prepaid debit card account in Swallow's name as a way for Rawle to pay Swallow for gold coins that Swallow sold to Rawle. Just before he left Check City to become Chief Deputy Attorney General, Rawle gave Swallow 12 one-ounce pure gold coins as a gift. Later on, Swallow decided to sell the gold coins because he "wanted to have a little bit of extra expense money" (UHR, 2014, p. 73). Rawle agreed to repurchase the coins. Instead of writing a check to Swallow, Rawle made deposits to the Netspend account with each coin sale. In all, Swallow received \$17,000 from Rawle on this prepaid credit card (UHR, 2014, p. 73). This example shows that not all money given to candidates is through conventional, reportable means. It also explains how a donor like Richard Rawle could wield significant influence on Swallow's campaign and his priorities as a public official.

Aside from influence, issues pertaining to equality of access are also relevant. Jeremy Johnson had tremendous access to not only Swallow and Shurtleff but to other politicians as well (UHR, 2014, pp. 50, 132-133). One interviewee put it this way:

These people are getting access to him, you know, these people like Mark Robbins, and Marc Jenson and Jeremy Johnson. I mean Jeremy Johnson—John Swallow was sort of his sure fire around the capitol. In, I think, the second week he was in office, [Swallow was] going around introducing him [Johnson] to legislators because Jeremy was trying to get some legislative help, trying to fend off this FBI thing. So, that's not necessarily something that you or I, it's not a courtesy that you or I would get if we went up there. Of course, we didn't give him a houseboat, we didn't let him use a sports car, we didn't fly him here and there, so, so, clearly, there's access. (J.E. Gladstone, interview, March 31, 2015)

Regarding the online processing of gambling and other issues that Johnson became embroiled in, the same interviewee said the following:

Jeremy Johnson gave more than a quarter million dollars in campaign contributions and gave them [Shurtleff and Swallow] gifts and what not. You know, I don't think the average citizen could go to the AG and say 'hey, I need help getting the FTC off my back'. You know, and he's like 'well, I can hook you up with a lobbyist, and this other guy who's got connections to Harry Reid.' I don't think that's a public service that everyone else can expect. So, and, again, it just kind of comes down to where the money is coming from and how that changes the perception and the way people conduct themselves. (J.E. Gladstone, interview, March 31, 2015)

The problem of the gambling scenario, in particular, is twofold. First, Swallow improperly excluded the OAG's experts on the matter in his response to Johnson's question. Kirk Torgensen was "shocked" to learn that Swallow and Shurtleff had been communicating with poker industry figures about the legality of processing poker payments through a Utah bank (UHR, 2014, p. 58). Because the poker issue involved the application of criminal law, he was surprised that Swallow or Shurtleff consulted neither him nor anyone else in the criminal division (UHR, 2014, p. 59). Second, there is a strong appearance of impropriety when a senior official in the OAG provides an opinion concerning Utah law on behalf of a "major contributor" to the AG's campaign (UHR, 2014, p. 58). Just weeks before sending the email, Swallow allegedly vacationed on board Johnson's houseboat (UHR, 2014, p. 58).

Shurtleff's relationship with Jenson further illustrates the importance of both influence and access. Shurtleff allegedly intervened in Jenson's case and arranged a lenient plea deal because he thought Jenson's wealth would be useful for him. Shurtleff was planning a US Senate run in 2009 when he visited Jenson in California. Aside from pressing Jenson for money, Shurtleff reportedly sought money from Jenson's wealthy

southern California friends (Cassell & Wikstrom, 2014, pp. 14-15, 26-27).

However, it also appeared that Jenson sought to leverage his position with Shurtleff. Allegedly, Jenson had prominent friends and family apply pressure to Shurtleff, as the OAG was initially preparing to file charges against Jenson. On one occasion, Jenson, himself, showed up in Shurtleff's hospital room while he was recovering from surgery in 2007. Uninvited, Jenson brought with him a plate of cookies that his wife had baked. There, he and Shurtleff first began discussing the option of a plea in abeyance deal (Cassell & Wikstrom, 2014, pp. 11, 14; Romboy, 2013a). Because of Jenson's wealth and potential connections to wealth, he, too, enjoyed more extended access to, and influence of, the AGs.

Tim and Jennifer Bell are another example of campaign money empowering interests. The Bells used their influence as campaign donors to move their personal foreclosure problems forward with Bank of America. While the OAG's motion to intervene in the Bell case was pending before the court, Mr. Bell reached out to Swallow's campaign manager. He said that he wanted to help the campaign, and, together, they planned a fundraiser held at the Bells' home (UHR, 2014, p. 107).

Swallow had been involved in managing the lawsuit weeks prior to the fundraiser. A few days after the fundraiser, Mr. Bell called a campaign aide, wondering when would be the best time to follow up with Swallow concerning the Bank of America lawsuit. However, the OAG, not the campaign, was handling the case (UHR, 2014, pp 108, 111). Thus, Bell's call to a campaign aide shows the "disturbingly close connection that the fundraiser bore to official action by Swallow" (UHR, 2014, p. 111). One interviewee made the following comment:

People who do give money, do get favors. I mean, like when we were talking earlier with the big dollars in campaigns, people don't necessarily give \$100,000 to a political campaign out of the goodness of their hearts. This is not an altruistic endeavor for them. So, you know, we saw pretty clearly with the poker money, the Jeremy Johnson money, and with the Tim Bell money that they were expecting something at the end of the road. (J.E. Gladstone, interview, March 31, 2015)

Such expectations, whether for quid pro quo transactions or not, is not lost on public officials. In the case of Swallow and Shurtleff, expectations shaped behavior. One person made the following comment regarding Shurtleff's shift in behavior after he announced his US Senate run:

When he decided to run for Senate—that was the turning point. I think that's where the tip occurred—where he moved away from being chief law enforcement officer, looking at it as 'this is my job' [to] 'what do I want, what's the win, what's the win.' (R.A. Donaldson, interview, April 9, 2015)

To further illustrate the point, the interviewee pointed out that “you have to raise *so* much money for a US Senate race, it's insane the amount of money, you know, in the millions of dollars” (R.A. Donaldson, personal communication, April 9, 2015).

Notwithstanding the influence of campaign money, the priorities and personal character of public officials are still relevant. In the case of Swallow and Shurtleff, both men appeared susceptible to the lure of campaign money based on their priorities to win and their allegiance to their friends (Gehrke, 2014a; 2014b; UHR, 2014, p. 6). However, the larger culture, as well as that which they fostered within the OAG, likely justified their priorities and blinded them to their lack of virtuous behavior (see further discussion concerning Proposition 3). After the allegations of corruption surfaced, Swallow remarked on a local radio program, 'I ask myself how did I get in this position. I have lived an honorable life' (Romboy, 2013b). Regarding Swallow's attitude to the allegations, one interviewee said the following:

He seemed genuinely convinced that he'd done nothing wrong, that this was just the way it was done, and the money and the gifts and the trips, you know, the golf outings, the houseboats, and all of that, was just sort of the way it was done. You know, he'd , I think, he'd seen it for so long, being as close as he was to Shurtleff, who kind of had the same approach. (J.E. Gladstone, interview, March 31, 2015)

In addition to the influence of campaign money, the structure of the OAG facilitated a corrosive, “out-of-control” culture at the top level of office leadership (Tribune Editorial Board, 2014, A12). Swallow and Shurtleff leveraged their top level authority to extract large campaign contributions and personal favors for themselves and other contributors (Tribune Editorial Board, 2014). In particular, the Committee found that Swallow’s misconduct had a significant effect on those who worked under him. During the course of the investigation, many current and former employees of the OAG expressed to the committee their “deep anger and frustration about what occurred during Mr. Swallow’s tenure” (UHR, 2014, p. 3).

One of the ways that Swallow “breached the public’s trust” was by defying the rules of the OAG (UHR, 2014, p. 2). Thus, it appeared that both Swallow and Shurtleff used their authority to ignore professional advice and jurisdictions of other attorneys in the OAG. Swallow’s involvement in the Bells foreclosure lawsuit with the OAG illustrated such misconduct. Once Swallow found out that the Bells were also campaign donors (in August 2012), he claimed to have removed himself from the foreclosure lawsuit. However, he did not do as he claimed. Instead, he continued to be personally involved in helping the Bells resolve their case right up through the November 2012 (UHR, 2014, p. 112).

Swallow finally announced to an assistant AG in December 2012 that he was out of the case. By this time, the Bells themselves had received a favorable settlement (UHR,

2014, pp. 112, 116; D.A. Tanner, interview, March 25, 2015). Yet, even then, Swallow did not follow the OAG's procedures for establishing a formal recusal. The OAG manual sets forth specific criteria in order to avoid real or potential conflicts of interest. Nobody in the OAG knew of any conflict screen that walled Swallow off from the Bell case in December 2012, or at any other time (UHR, 2014, pp. 116-117).

Aside from breaking rules and procedures, Swallow and Shurtleff allegedly defied the professional advice of their staff attorneys (UHR, 2014, p. 117). As outlined in Chapter 4, certain line attorneys sought to extend the Bells' lawsuit to thousands of others in the state who were in need of similar assistance. However, Swallow explained to one of the Division Chiefs that he (Swallow) might have given Bank of America the impression that, if the bank settled with the Bells, the case with the state of Utah would 'go away' (UHR, 2014, p. 115). Shurtleff then decided, without consulting with or informing the line attorneys assigned to the case, to drop the case (UHR, 2014, p. 117). When informed of this decision, the Judge in the case was not happy about it. Although the line attorneys felt strongly about continuing with the case, they explained to the judge that they could do no more because the AG had signed off on it (D.A. Tanner, interview, March 25, 2015).

Another example of misuse of office authority is the Jenson case. The OAG first began to investigate the allegations of securities fraud for Jenson in 2007. Upon receiving pressure from outside parties on behalf of Jenson, Shurtleff was reportedly skeptical of filing charges. However, he agreed to comply with *best practices* of the OAG by not meeting with the defense, or the defense's counsel, without the presence of a line attorney assigned to the case (Cassell & Wikstrom, 2014, p. 9).

However, evidence uncovered by investigators shows that Shurtleff did not keep his word throughout the spring and summer of 2007. In one instance, Shurtleff emailed the line attorneys about meeting over breakfast with Jenson, his attorney, and a lobbyist. One of the line attorneys objected, stating that everybody involved in the case should be present at the meeting. In spite of this objection, Shurtleff allegedly attended the meeting without further counsel from the OAG. At this meeting, Jenson pleaded that Shurtleff drop the charges (Cassell & Wikstrom, 2014, p. 10).

According to the evidence, Shurtleff allowed a separate back channel of communication to develop between him, Jenson, and parties outside of the prosecutors and defense team. Shurtleff apparently did not include the line attorneys, who sought to bring felony charges against Jenson, in this channel of communication (Cassell & Wikstrom, 2014, p. 56). Investigators, thus, deemed Shurtleff's actions to be "a clear deviation of standard policy" (Cassell & Wikstrom, 2014, p. 56). Ultimately, Shurtleff overruled line attorneys by offering Jenson a no-contest plea abeyance rather than a plea bargain and a felony charge, which is what the line attorneys initially sought for (Cassell & Wikstrom, 2014, pp. 15, 56). Both the Jenson and Bell cases highlight the failings of ethical leadership within an office setting.

Systems of formal rules, authority, and norms of rational behavior do not always constrain personal preferences within an office setting. Instead, cultural expectations, values, beliefs, and assumptions often control personal preferences (Ott, 1989). Based on the aforementioned examples, the decisions of Swallow and Shurtleff were not constrained by the rules and procedures of the OAG. Based on the evidence, their behavior extended from the power inherent in their authority as Attorney General and

Deputy Chief Attorney General. Furthermore, based on the examples discussed, Swallow and Shurtleff used their discretion to control the relevant office agendas—in spite of advice or protest from others in the OAG (Bolman & Deal, 1997). Powers generated by their structural authority, and the culture that such authority generated, appeared to dull the two leaders’ sense of accountability to their fellow employees and to the public.

The rest of the OAG did not appear to indulge in the corrosive culture that Swallow and Shurtleff allegedly fostered in the office. According to the Committee, “loyal public servants had known for years that what was happening in the Office was wrong, yet they felt powerless to stop the wrongdoing because it came directly from the top” (UHR, 2014, p. 3). One interviewee expressed similar sentiments. This person made the following comment:

It was a culture. It was a culture that was prevalent at the top. . . and people who wanted to push back on it and felt like they couldn’t. . . It’s hostile, and it posits people to have to say, ‘do I want to have a living and feed my family and have this position or do I speak up against those (in power)’ and I just think that a lot of people were in a very bad situation. (R.A. Donaldson, interview, April 9, 2015)

The culture spoken of was not an office-wide phenomenon but one that plagued leadership. Thus, it “wasn’t a John Swallow thing, it was a culture that had been precipitated by his predecessor (Shurtleff) and then Swallow picked up the playbook” (R.A. Donaldson, interview, April 9, 2015).

In the case of the OAG and the culture that developed under Swallow and Shurtleff, two structural elements stand out as significant: the assignment of attorneys to a case and the lack of a system to report misconduct. The OAG is a large office that has many employees. Many working in the criminal division are located in an entirely different building, in a different part of town, than those in the civil division. As a result,

there is little interaction between the two divisions. Furthermore, the office often assigns only a single lawyer to a case, which can make it more difficult for that person to question authority if ethical issues arise (S.B. Hale, interview, March 20, 2015). One interviewee, familiar with the inner structure of the OAG, said the following:

. . . if you have one attorney (assigned to a case) who, maybe, just bought a house or a car, they have a big bill they have to pay, and they now become concerned about maintaining their job. (They) don't have the freedom or ability or willingness, necessarily, to push back and question authority, right. That isolated individual is on an island. (It's) much easier for someone higher up in the structure to take advantage of that situation. (S.B. Hale, interview, March 20, 2015)

Such isolation in structure appeared to contribute to the type of culture that developed at the top of the OAG during the tenures of Swallow and Shurtleff.

The other problem of the OAG during this time was the lack of a central, neutral system to report ethical misconduct. Normally, if someone had a complaint, that person would report it to the supervising authority. People wanted to “talk but felt that they couldn't” (R.A. Donaldson, interview, April 9, 2014). Thus, employees of the OAG may have filed complaints but realized that they could not do so without having to report to the AG himself. There was no “if it is the AG, you call this office” type of option available for those who may have filed a complaint (S.B. Hale, interview, March 20, 2015). Such lack of a reporting system appeared to enable Swallow and Shurtleff's lack of accountability in governance.

In sum, the public campaign system enabled corrupt behavior by giving power to people with lots of private money to contribute. These types of donors received excessive influence and access. Donors with large amounts of money, such as Richard Rawle, Marc Jenson, and Jeremy Johnson, in turn, prioritized certain ideas and interests

through influencing public officials. The political discretion of Shurtleff and Swallow became co-opted and, ultimately, they became accountable to the interests of the donors. The campaign funding system, then, was a significant factor in contributing to corruption (Overby, 2015).

Furthermore, loss of accountability at the top of a bureaucratic organization enabled corrupt behavior. The authority of leadership and a lack of checks and balances on that authority fostered the culture at the top. In this case, the lack of ability in the OAG to report misconduct of those higher up, and the lack of interaction on cases were both pivotal factors. Ultimately, these factors contributed to the loss of accountability. However, institutional factors notwithstanding, I argue that a lack of virtue and character were crucial to both men's behavior regarding moneyed interests and their leadership in the OAG (J.T. Katsopolis, interview, March 5, 2015). The virtue approach, discussed later in the chapter, further argues this point.

Proposition 3

Relationships encourage trust and loyalty between the public official and his/her social network, often distorting judgment and leading to corruption. In the Swallow case, relationships were a key motivator of action. Relationships are actually the pivotal component of all three propositions, particularly 1 and 3. Similar to Proposition 1, Swallow's relationships to Jeremy Johnson and Richard Rawle cannot be underestimated. Unfortunately, this case exemplifies the idea that, regarding ethical misconduct, ". . . it is your friends, not your enemies, who will often get you in trouble" (Bowman & West, 2015, p. 104). Proposition 3 also indirectly addresses a lack of character. In this case,

the power of relationships and a shared ideology justified the lack of virtuous behavior of the attorneys general addressed in the discussion of Proposition 1. In turn, these influences enabled corrupt behavior.

The friendship and the trust that ensued from the relationships appeared to distort Swallow's judgment for the worse. Swallow met Johnson in 2008. The question as to why Swallow, an aspiring public official, would seek to build a relationship with somebody whose business received citations for fraudulent acts is a curious one. There is no doubt that Johnson's wealth motivated Swallow, for fundraising purposes (UHR, 2014, p. 46). However, Swallow also trusted Johnson, based on who he perceived Johnson to be. First, Swallow considered Johnson to be a "friend" (*Third Judicial*, 2013b, p. 239).

According to Swallow, both men shared the commonality of growing up in St. George, Utah (*Third Judicial*, 2013b, p. 225). Johnson was beloved in his hometown for using his acquired wealth to help people in need. He received national attention for his generous humanitarian efforts in the wake of the large earthquake that struck Haiti in January 2010 (Singer, 2013). Swallow appeared to admire such benevolent acts, publicly citing Johnson's reputation as a humanitarian (*Fox13Now*, 2013). For Swallow, Johnson's philanthropic reputation likely offset any past indiscretions pertaining to Johnson's business dealings. Shurtleff likely regarded Johnson the same way. In an October 2012 phone conversation, Shurtleff told Johnson, "I've been telling everybody, to this day I tell people, that's the Jeremy I know. The guy's not a crook, you've got the biggest heart in the world. I get it" (Lindquist & Casper, 2014, p. 12).

Similar to Swallow and Shurtleff, Johnson is a member of the LDS Church

(Singer, 2013). Based on my own experience in the local Mormon community, there is a perception that one's economic success is a mark of one's righteousness. In other words, doing well is the direct result of being good. This notion may or may not be common to other religious communities that recognize economic success. Recognizing this cultural notion—along with Johnson's humanitarian efforts—it is likely that Swallow felt quite justified in collaborating with Johnson. People close to Johnson had described him as 'Christ-like' and 'generous' (Singer, 2013).

Another, but related, point regarding the role of culture in the Swallow case is the desire to avoid the appearance of failure, or wrongdoing. This point also emanates from my experience in the local Mormon community and appears to be common to other religious cultures (see Dealy, 1977). Striving to portray an image of success and goodness likely comes from high standards imposed by the LDS church itself as well as communal reinforcement. The latter entails consistent monitoring by friends, family, neighbors, and local lay leaders. As detailed in the section discussing Proposition 1, Swallow and his associates went to great lengths to satisfy their need to win while avoiding the appearance of wrongdoing (UHR, 2014, pp. 12, 15, 92, 96, 98).

To understand Swallow's corrupt behavior pertaining to the payday lending industry, it is necessary to understand his relationship with Richard Rawle. Campaign aides described Swallow's relationship with Rawle as one of "reverence" (UHR, 2014, p. 88). Apparently, Swallow did not allow his campaign staff to solicit contributions from Rawle or to access his phone number. Sometimes, Swallow would have meetings in Rawle's office in Provo and not invite, or brief, campaign staff (UHR, 2014, p. 88).

Swallow and Rawle developed a relationship during Swallow's attempts to run

for Congress in 2002 and 2004. By 2004, the two men became “good friends” (UHR, 2014, p. 63). Rawle hired Swallow to serve as general counsel and as a lobbyist for Rawle’s payday-lending businesses in the 2000s. He further contributed to Swallow’s unsuccessful attempts for a seat in Congress. In addition, Rawle’s family contributed to Swallow’s campaigns for Congress in 2004 and for AG in 2012 (UHR, 2014, pp. 62-63, 100-101). Eventually, Swallow’s two daughters worked for Rawle at one of the payday-lending businesses after Swallow left for the OAG (*Third Judicial*, 2013b, p. 204). Such connections and interactions resulted in a close relationship between Swallow and Rawle—one in which Rawle “trusted” Swallow to get things done for him (*Third Judicial*, 2013a, p.58).

Behavioral ethics examines the influence that emotions and personal biases can have on ethical judgment. Rational thoughts should prevail in judgment and decision-making, but biases and emotions often obscure those (Bazerman & Tenbrunsel, 2011). Similar to Herbert Simon’s (1957) theory of bounded rationality as limiting the quality of general decision-making, there are limits to the quality of decision making with ethical import. “Bounded ethicality” refers to the latter idea (Chugh, Bazerman, & Banaji, 2005, p. 75). As a result, people with good intentions make decisions plagued by false assumptions, self-interest, overlooking the facts, and not looking ahead to long-term consequences (Chugh, Bazerman & Banaji, 2005).

Contrary to logic, Swallow failed to recognize warning signs from Johnson’s past business violations (UHR, 2014, p. 50). Likewise, from a logical standpoint, he should have distanced himself from Rawle and other payday-lending friends when he entered into public service with the OAG (UHR, 2014, pp. 68-69). However, he did not behave

according to such expectations. Unconscious and emotional feelings, stemming from friendships and ideology, likely superseded logical, rational thinking on Swallow's part. These further justified his behavior.

Ideology contributed to distorting Swallow's judgment in many of his relationships. Trust and loyalty bring people together and sustain their relationships. However, common values, perspectives, and interests also fuel these relationships (Roman & Miller, 2014). In other words, the mentality of being part of the same "tribe" fuels political relationships (R.A. Donaldson, interview, April 9, 2015). The Swallow case shows that ideology—particularly regarding politics, and religion—was a motivating factor used to create trust and loyalty in relationships.

As previously discussed, Utah is often characterized as a one-party-dominated state (Canham, 2014b). The fact that Swallow and Rawle shared the same political beliefs, in part, sustained their friendship (UHR, 2014, p. 63). The same was likely true for Swallow and Johnson. In 2010, Swallow enlisted Johnson in an effort to raise money for Utah's now conservative Senator Mike Lee (R) (UHR, 2014, p. 55). Years later, Johnson admitted that he had laundered money that went to Lee's campaign by writing campaign checks to straw donors. He alleged that Swallow requested him to write such checks (Gehrke, 2014a; D.A. Tanner, interview, March 25, 2015).

Swallow's partisan network extended beyond his immediate circle of friends. In 2011, Swallow, second in command to AG Shurtleff at the time, arranged a meeting between Check City (a payday-lending affiliate) and U.S. Congressman Jason Chaffetz (R). Swallow arranged for the Congressman to spend an hour touring the businesses. More significantly, he orchestrated a large donation from Check City to the Chaffetz

campaign for at least \$9600. Even after joining the OAG, Swallow continued to help his friends in the industry strengthen their political connections (UHR, 2014, p. 65).

Swallow sought to benefit politically from a conservative ideology. He distinguished himself as the “true conservative” when debating Sean Reyes before the 2012 election (Miko, 2012). During the investigation, the Committee uncovered an email that Swallow wrote to his campaign manager in 2011 that mentioned the possibility of Swallow running for governor. He wrote “the tea party groups are going to be very upset with the Governor and he has not taken the lead in some of the important issues. Is he going to be vulnerable?” (UHR, 2014, p. 68).

An important part of the conservative ideology is trust in free market principles. Swallow, himself, reinforced this concept when questioned by the media why \$250,000 was necessary to arrange lobbying help for Jeremy Johnson (*Fox13Now*, 2013). Business successes have defined many Mormons today and historically (Danforth, 1980). From my own experience in the Mormon community, lessons on the gospel are not always separate from an emphasis on free market principles. Such philosophy may stem from the LDS Church’s own troubled history with the U.S. government in the 19th century (Campbell, et al., 2014, pp. 8-9). It may also stem from the cultivation of a strong business ethic early in the Church’s history (Arrington, 1958). Finally, it most likely emanates from the principle of free agency—or the ability to choose—that is one of the fundamental principles of the LDS church (Taber, 1993). From my local perspective, this ideology likely generated trust amongst certain voters and within Swallow’s social network.

Later in 2011, Swallow sent a mass email to leaders of Utah’s payday loan

industry, online lenders, and related parties. He assured them that he was committed to fighting regulatory dangers to their businesses from the Federal Consumer Financial Protection Bureau. He further assured them that he would “help create a critical mass of support among the conservative AGs” (UHR, 2014, p. 70). In the same email, Swallow assured the leaders that being a Republican on the ballot would assure him an easy victory in the 2012 election (*Third Judicial*, 2013b, p. 206, 209).

Swallow had hoped to raise \$500,000 from payday businesses, online business lenders, as well as others (UHR, 2014, p. 70). However, both sides knew that such a goal would not be possible without a relationship of trust. Regarding this matter, one of the leaders of the Online Lenders Alliance said, “When you have friends running for office, you support them. We knew him . . . obviously we’re supportive of John” (UHR, 2014, p. 72). Later, this same leader sent an email to an associate, stating, “We are supporting him because he will be a great advocate for us if we get him in office. . .” (UHR, 2014, p. 72). Raising large sums of money was seemingly important for Swallow’s ambitions. However, the aforementioned examples show that playing on ideological passions and fears contributed to his ethical misconduct as well.

Partisan politics can be problematic if one political party has considerably more power than the others do. One person familiar with the Swallow investigation said the following, regarding Utah’s political landscape:

If we had a more equitable distribution of votes for other parties and for Democrats, and if there was more of a democratic presence in the legislature, and if they could mount an effective campaign for AG—I think that you would see less,. . . uh, there would be more accountability. More of a sense of, you know, one party balancing out the other and keeping an eye on the other one, rather than just having Republicans that dominate everywhere and know that they are going to be reelected, you know, and know that Democrats in the legislature don’t have enough votes to mount an inter-vestigation (sic), you know, if they thought one

was needed. (J. T. Katsopolis, interview, March 5, 2015)

The political imbalance that exists in Utah politics may lead to not only less accountability for Republicans but also more loyalty to them. In spite of Swallow's behavior in the years leading up to the election, the public elected him to office, just as he predicted to his potential donors that he would (*Third Judicial*, 2013b, p. 206). People had knowledge of inappropriate behavior by Swallow and others, at the time, but did nothing about it (R.A. Donaldson, interview, April 9, 2015).

As previously discussed, the religious culture also played a role in the power of ideology. Chapter 3 discusses former Utah Senator Bob Bennett (R), who addressed the dangers of a one-party-dominated political system. Bennett simultaneously referred to the political trust that comes from sharing religious values. As quoted through the Salt Lake Tribune, Bennett referred to the Swallow Scandal by commenting, “you see what happens when you have a one-party mentality, eventually you have corruption. We staved it off for a long time, but Brother Shurtleff and Bishop Swallow gave it to us”³ (Canham, 2014b).

Religious influence appears to work in two different ways in terms of building trust and loyalty. First, it is motivational by enabling two or more people to form relationships and collaborate towards a particular goal. Uslander and Conley (2003) assert that people tend to “base their social circles upon family, close friends, and members of their own groups, be they ethnic or religious” (p. 335). Secondly, it is pivotal when it induces citizens to vote a politician into office based merely on the perception of shared

³ ‘Brother’ is a colloquial term that members of the LDS Church tend to use to address males in religious settings. ‘Bishop’ is referring to an ecclesiastical leadership position that Swallow held in his local congregation (UHR, 2014, p.84).

religious and ideological values.

As a personal example of the first, I have seen and heard numerous instances of fellow Mormons using their religion to influence a business transaction. Under such circumstances, one person may reassure the other person that he or she is a Latter Day Saint. Alternatively, the first party may ask the second party if indeed that person is a Latter Day Saint. Such “coded” conversations thus signal that business should proceed, based on trust and commonalities. These types of transactions may not always be common, but they do occur, affirming the influence of tight social networks.

Obedience to authority and deference to leaders are significant social influences in the Mormon community that build trust and loyalty (Stevens, 2013; Taber, 1993). Deference to leaders is problematic in governance because it protects them from external criticism, disabling proper checks and balances. Thus, deference to leaders allows them to indulge in self-serving rationalizations (Buchanan, 2002). Shurtleff reflected such behavior during the early stages of the investigations as he responded to certain queries concerning campaign funds. To the journalists investigating, he reportedly questioned why they did not just trust the leaders in the office (Fabrizio, et al., 2014). Aside from the lack of a reporting mechanism from within the OAG, passiveness derived from a culture of obedience may explain why countless bystanders and associates of the two men did not report their corrupt behavior (J.E. Gladstone, interview, March 31, 2015; R.A. Donaldson, interview, April 9, 2015; Stevens, 2013). Such deference to leaders and friends leads to a loyalty that transcends proper checks and balances.

In 2009, Mark Shurtleff visited Marc Jenson in California for the second time that year. Evidence uncovered from this trip showed that Shurtleff made an appearance at the

same church as Jenson. They did not go in the building together, but Shurtleff and his wife ended up sitting by Jenson and his wife at the service. Shurtleff managed to visit with numerous people there who recognized him. According to Jenson, the venue turned into a campaign stop for Shurtleff (Cassell & Wikstrom, 2014, pp. 26-27).

Common ideological ties between Shurtleff and Jenson appeared to distort Shurtleff's judgment. Campaign stop or not, it appeared that Shurtleff used a venue of faith to ingratiate himself to Jenson and potentially others. Shurtleff was, at the time, planning a US Senate run in 2009 (Romboy, 2013a). On that same trip, he also pressed Jenson for money (Cassell & Wickstrom, 2014, p. 27). When his colleagues in the OAG scolded Shurtleff for inappropriately spending time with Jenson in California, he justified why his actions were not a problem (Cassell & Wickstrom, 2014, p. 29-30).

Interestingly, Shurtleff claimed that Jenson used similar motivational tactics in a Deseret News article in 2013. After the OAG's filing of initial charges against Jenson in 2008, allegedly numerous people, including LDS mission presidents, called Shurtleff to plead for leniency in Jenson's case (Romboy, 2013a).

Finally, the prevalence of affinity fraud in the local culture indicates how the role of religion could be influential in local politics. The social environment in Utah is quite susceptible to affinity fraud. Such financial crimes frequently occur among members of the LDS Church (Harvey, 2015b; Harvey, 2015c). Close personal relationships and shared culture among members of the LDS church create an environment susceptible to predatory behavior and financial crimes. Essentially, one person of a community exploits a relationship of trust to defraud another person in the same community (Harvey, 2015b; Harvey, 2015c). One of the interviewees discussed this cultural phenomenon in relation

to Utah politics by stating the following:

It's partisan, but I think here in this state there's something more inherent and cultural to that. There is the trust that often occurs, and I think that's what ties into affinity fraud here in this state, but I think it permeates the political sphere too—that there is this trust, you know, 'that person can't do wrong because he's part of my tribe, you know, he's part of us; he's not going to do any wrong, I trust him.' (R.A. Donaldson, interview, April 9, 2015)

In summation, relationships were a key component in the allegations of corruption. Furthermore, trust and loyalties—fueled by a shared ideology—were essential components of such relationships. Such emotion-based influences appeared to distort the judgment and discretion of Swallow and Shurtleff, leading to corrupt behavior. What may be most surprising was not the initial, biased judgment that resulted from such relationships of trust. Rather, it was the perpetrators' retrospective blindness of such wrongdoing (Canham & Lang, 2014; Pronin & Schmidt, 2012; Romboy, 2013b). Trust and loyalty to friends and ideology likely distracted the perpetrators and reassured them against the reality that their actions lacked virtue.

Summary of Findings

The propositions presented are not causes of corruption in the strictest sense of the word. Thus, positivist epistemological and ontological causality does not apply here because clear cause and effect observations are not achievable. Thus, the previous analysis does not explain a clear path of corruption, but it makes the corrupt behavior more understandable (De Graaf, 2007). The propositions combine to form a relational perspective, one that combines individual and societal perspectives, in order to understand the corruption process as a whole (Bourdieu & Wacquant, 1992; Vardi & Weitz, 2004). Such a relational perspective is superior to a single perspective, which can

be quite limiting in understanding the motivational constructs of corruption (Roman, 2014).

What key components of a culture of power contribute to corrupt behavior? To summarize, corrupt behavior may result from three separate, but related processes. It can result through the public official—and his or her social network—prioritizing victory through material gains and status concerns. Furthermore, powers inherent in the campaign finance system and bureaucracy may also induce the public official to lose his or her sense of accountability. Finally, it can result through relationships that encourage trust and loyalty—but distort judgment—between the public official and his or her social network.

In this case, key components of a culture of power included the bureaucratic structure of the OAG, the campaign finance system, a one-party-dominant state, and a highly influential religious culture. Finally yet importantly, friends and relationships were significant factors. Regarding the public man, Dealy (1977) notes that the “test of public power is found in the extent of his friendships” (p. 12). Such friendships are “necessary for one to appear successful” (p. 12).

According to the evidence discussed, particularly in Proposition 1, Swallow and Shurtleff appeared to compromise principles in order to achieve their end goals. Utilitarianism judges ethical worth by an action’s consequences and places the greatest good for the greatest number of people as the supreme goal. In other words, the ends can justify the means (Lewis, 1991). Based on evidence, the actions and moral attitudes of the attorneys general and the Swallow campaign were utilitarian in nature (Dealy, 1977; D.A. Tanner, interview, March 25, 2015).

For example, the payday money solicited and then obscured by the Swallow campaign maximized the benefits of certain players within Swallow's network. However, the solicitation of and use of the money did not serve the public interest as a whole (UHR, 2014, pp. 9, 69, 72). In the end, Swallow and Shurtleff compromised moral principles for a more desirable status for themselves and their friends. As a result, their behavior lacked virtue, and their character came into doubt (Lewis, 1991). They lacked commitment to virtue (Kupperman, 1991; Lynch & Lynch, 2009).

I do not have the data or knowledge to judge Swallow and Shurtleff, on a whole, as good or bad, nor do I wish to label them merely as 'rotten apples' (Haller & Shore, 2005, p. 2). I do argue, however, that while their commitment to virtue appeared to be lacking, their identities within the culture of power strengthened them and compensated for their lack of virtue. In other words, their status in the Republican Party and in the LDS church enabled them to feel more virtuous and responsible than they actually were (Canham & Lang, 2014; Romboy, 2013b). Others may have seen them in this light as well, which perceptions further weakened necessary checks and balances (R.A. Donaldson, interview, April 9, 2015). Being loyal to trusted friends and associates allowed them to show their generosity, enhance their images, and feel good about their actions, even while serving only private interests (Dealy, 1977). Finally, the campaign system and their leadership positions in the OAG became additional tools for them to exercise their power (J.E. Gladstone, interview, March 31, 2015; S.B. Hale, interview, March 20, 2015).

Applying the Theoretical Approaches

The theoretical approaches, applied in this chapter, help to enhance further understanding of the research question. In particular, they provide perspective about the nature of the propositions and their meanings mean for future ethical governance. I discuss some policy ideas in this chapter, some of which I further assess in the concluding chapter. I repeat some of the case narrative, outlined in previous chapters, as it applies to the theoretical approaches. The chapter proceeds with the public interest approach first.

The Public Interest Approach

Starting in the late 1950s, the public interest received little attention from public administration scholars. The perceived lack of rigor and measurability of the concept discouraged many scholars from actively pursuing it as a research subject (Goodsell, 1990). Nevertheless, throughout the end of the 20th century and beyond, more scholars have recognized that the public interest is a valuable normative concept to public administration. The public interest concept continually gauges the quality of governance in public service by determining what is not in the public interest (Cooper, 2004; Goodsell, 1990). The public interest is generally that which is beneficial for society as a whole. Such a concept is opposed to the narrower interests of one or more individuals or that of a private group (Kravchuk & Rosenbloom, 2005).

The public interest approach is most valuable by retroactively determining that multiple actions of Swallow and Shurtleff were contrary to the public interest. The government investigations of these two men have, in effect, fulfilled the purpose of the

public interest approach—determining that the actions of Swallow and Shurtleff did not reflect the “. . . greatest possible outcomes for the public” (S.B. Hale, interview, March 20, 2015). The Report states that Swallow “compromised the principles and integrity of the Office to benefit himself and his political supporters” (UHR, 2014, p. 2). It also states that he “breached the public’s trust. . .” (UHR, 2014, p. 2).

The public interest approach relates to all of the propositions previously established, particularly in pointing to biases that distort the public interest. By pandering to friends, one’s own status, and the special interests that come with campaign contributions, bias became a problem for public governance. One interviewee commented that “if partisan issues start to creep into some of that (government) decision making, I think that creates problems, government trust problems” (S.B. Hale, interview, March 20, 2015). If citizens begin to feel that the public interest is secondary to specialized, particular interests, problems ensue because “. . . lack of confidence creates problems” (S.B. Hale, interview, March 20, 2015). When asked, in the context of the case, what the public interest was, one interviewee said the following:

It is to ensure that elected officials, with the decisions they make, particularly in the AG’s office, are free, as much as possible, of bias. . . And I think the public has a right to expect that, [with] money spent in paying salaries of public officials, [they] are going to do the best job they can in an unbiased, fair, rational, logical manner, rather than basing decisions on such things as the exchange of money or influence. (J.T. Katsopolis, interview, March 5, 2015)

The public interest approach emphasizes the importance of procedural due process—where the law protects all rights and interests equally without regard to the status of individuals involved (Martinez, 2009). Concerning the Swallow case, the Bell situation represents, perhaps, the quintessential example of procedural imbalance and partiality. In review, the OAG, including John Swallow, involved itself in litigation to

prevent illegal foreclosure of the Bells home by a Bank of America (BOA) affiliate. The OAG then involved itself in litigation to protect many more Utah homes undergoing foreclosure by the same company (UHR, 2014, p. 10).

Later, during a campaign fundraiser hosted at the residence of the Bells, Swallow realized that the Bells were clients. He chose not to disclose his mistake, refund the money of the fundraiser, or recuse himself from further involvement in the case. Instead, he accepted the benefits of the fundraiser and continued to involve himself in negotiations with the BOA to settle with the Bells. Evidence shows that Swallow negotiated with Bank of America to have the OAG drop its own lawsuit on behalf of Utah citizens, in general, in exchange for the Bank's settling with the Bells. Shurtleff then terminated the State's involvement in the general litigation in order to save Swallow embarrassment resulting from his conflict of interest dilemma (UHR, 2014, p. 11). Evidence further suggests that Shurtleff may have terminated the lawsuit in order to protect his own future job interests with a law firm that has Bank of America as a client (Harvey, 2014a).

The Bell situation cuts at the heart of the public interest approach by showing how the AGs "... compromised the State's broader legal position in favor of Utah homeowners" in order to obtain a private benefit for a campaign contributor (UHR, 2014, p. 11). More than one of the people interviewed spoke extensively, on their own accord, of the problematic nature of the Bell matter. One interviewee made the following comment:

[It] . . . really kind of rubbed a lot of the legislators the wrong way just because there were so many, sort of, average Joe Utahns who were just, you know, steamrolled because Shurtleff decided on his own to dismiss this lawsuit that could have helped, I think they said between 7,000 and 15,000 people facing

foreclosure, who were in jeopardy of losing their homes. So, those are sort of the real-world consequences of somebody doing something that, again, doesn't serve the public interest. (J.E. Gladstone, interview, March 31, 2015)

Regarding Shurtleff's dismissal of the case and the outcome of the matter, another interviewee said:

.... about 5,000 Utahns had their homes foreclosed on, and the Bank of America only had to modify what appeared to be a sweetheart deal for one couple. Mark Shurtleff went to work for a Washington law firm whose main client was Bank of America. So, I feel bad about that, for those folks—they got cut up in the political and ethical mess and several thousand of their homes were foreclosed. (D.A. Tanner, interview, March 25, 2015)

Regarding the matter, a different interviewee added that “. . . I trusted that our Attorney General was going to do the right thing, but. . . the reason it all went south was to help a donor of Swallow's. . . who was a major donor to the Swallow campaign” (R.A. Donaldson, interview, April 9, 2015).

The Bell situation contains all of the ingredients of patronage that reformers and progressives sought to fight at the end of the 19th century—political supporters with money and favors to impart in order to gain from political favors in return (Menzel, 2012). In fact, the Swallow case in general is not unlike governance problems of the mid- to late-19th century, which were the result of partisanship and favors (Scott, 2002).

Concerning these problems, Robert North Roberts asserted:

From the 1789 swearing in of President George Washington to the 1828 election of President Andrew Jackson, the United States faced relatively few government ethics scandals. From 1828 to the passage of the Pendleton Act of 1883, the country saw an explosion in government ethics scandals brought about in large measure by the growth of the “spoils system” and the inability and unwillingness of government institutions to prevent a growing number of public officials from seeing government service as rich opportunity to line their pockets at the public expense. The post-Civil War period from the 1868 presidential election of Ulysses S. Grant to the end of the 1870s saw an unprecedented level of public corruption at the federal, state, and local levels. (Roberts, 2001, p.vii)

Mackenzie (2002) further asserted that the types of political leaders that preceded and followed the Civil War held little regard for the elites who had governed America in its early decades. Leadership turned over to practical men who brought with them a common view of politics. In other words, they believed in an exchange of relationships in which those who gave received something in return (Crenson, 1975; Mackenzie, 2002). Scandals of this time, thus, generally comprised three key ingredients: growing and profitable industries, a desire of the industries to avoid government regulation and taxation, and a patronage system where government employees were more interested in personal gain than in public service (Mackenzie, 2002).

What prescriptions would the public interest approach prescribe for dealing with the type of corrupt behavior found in the Swallow case? The public interest is a broad approach that encompasses many different visions of good governance (Morgan, 2001). However, the legacy of the moral reformers and populists—who sought to reduce corruption in government at the turn of the 19th century—continues to influence modern day thinking about how to protect the public interest. As a result, the public interest approach would emphasize instituting proper safeguards. General examples of safeguards would be conflict of interest legislation, financial disclosure laws, open government requirements, and various Hatch-Act regulations (Anechiarico & Jacobs, 1994; Morgan, 2001).

Evidence from the Swallow case emphasizes the continual need for institutional safeguards. Regarding state government in Utah, one interviewee said that there “. . . are not sufficient safeguards to ensure ethical governance,” citing that personal integrity alone is not always enough (S.B. Hale, interview, March 20, 2015). This interviewee

further stated, “the lack of institutional safeguards creates some distrust among the public, and it makes it easier for folks to rail against the system and to lose faith in the system” (S.B. Hale, interview, March 20, 2015). Another person interviewed shared similar sentiments by stating that “. . . if there’s not a watchdog, or that type of thing, then I think there’s more likely to be incidences of corruption in government” (J.T. Katsopolis, interview, March 5, 2015). In addition, the latest State Integrity Investigation graded Utah as failing regarding executive accountability, judicial accountability, and ethics enforcement agencies, among other areas (Campbell, 2015).

Regarding the Swallow case, the public interest approach would emphasize the need to guard elections from private, partisan interests—just as it emphasized nonpartisan administration during the Progressive movement (Bowman & West, 2015). The Progressive movement was a counterforce that emerged in response to patronage and corruption scandals in the late 19th century. The reforms of this movement aimed to root out corrupt practices and restore trust and confidence at all levels of government. In particular, the Progressives sought to purify the machinery of government through injecting an impartial, objective professionalism into the public service (Gawthrop, 2009).

Although nonpartisan election for state Attorney General is virtually unheard of in the United States, some argue that it could assist in protecting the public interest from partisan interests (R.A. Donaldson, interview, April 9, 2015). One interviewee likened partisan elections for Attorney General to hiring a lawyer based on whether that person is a Republican or Democrat. This person argued as follows:

Are they a good lawyer or aren’t they? —I think is sort of the bottom line when you’re hiring an attorney. And that’s what the AG is, is a legal advisor for the

state. Adding in the partisan component, I think, increases opportunities to skew how you give advice. In a lawyer, you want as objective advice as you can get, you don't want someone who has a bias. (S.B. Hale, interview, March 20, 2015)

Along these same lines, another interviewee stated that “. . . you want somebody to be your top cop; you don't want (someone) to be thinking about, you know, ‘do I make a public safety decision based on political ideology?’” (R.A. Donaldson, interview, April 9, 2015).

In this case, the public interest approach would also prescribe reforms to eliminate pathologies that may result from political and institutional settings. For example, the lack of support for employees to report issues of misconduct, and the lack of a system to report misconduct, created an environment ripe for corruption in the OAG. One potential reform to assist employees would be to create more interaction between lawyers on cases. Thus, assigning more than one lawyer to a case could be helpful by providing accountability. The idea is that a larger social network that is able to monitor people best weakens a corrupt network (Nielsen, 2003). By adding an extra person to the case, the opportunity for someone to speak out in an unethical situation increases:

If you have more eyes on that case—and maybe you still have the individual who is not willing to question—but if you have the senior guy whose kids are out of college, and he's already paid off his house, and he's getting ready to retire anyway, maybe he'll be a noisemaker and a troublemaker. (S.B. Hale, interview, March 20, 2015)

A second potential reform is to set up an internal office, within the OAG, to report concerns. Such an office could be set up in a way that it was independent of the Attorney General. That way, if somebody were to report on the AG, an investigation of the AG could take place and that person would not have to fear retaliation (S.B. Hale, interview, March 20, 2015). The key idea of this approach is to strengthen the bureaucratic elite to

counterbalance the power of the political elite, thus discouraging the exchange of material rewards for political support (Etzioni-Halevy, 2002).

In this same vein, the public interest approach would also emphasize more adequate monitoring of the OAG through outside investigative entities (Anechiarico & Jacobs, 1994). Several interviewees brought up the need for an outside agency to more fully monitor government offices, such as the OAG, and provide whistleblower protection. Such observations likely correspond with Utah's failure to bolster ethics enforcement agencies, according to the State Integrity Investigation (Campbell, 2015). The state legislature has recently debated the need for an Office of Inspector General but, at the time of this writing, it did not exist (S.B. Hale, interview, March 20, 2015). The Utah legislature did approve an independent ethics commission in 2013 to investigate complaints of elected, executive officials. However, this committee lacks prosecution authority. An Inspector General would need to have the authority to not only investigate and subpoena but also to prosecute, where necessary (*AP Regional*, 2013; J.E. Gladstone, interview, March 31, 2015; S.B. Hale, interview, March 20, 2015).

The Social Equity Approach

Social equity theory remains an alternative to the classic objectives and rationale of public administration, begging the question—does public service enhance social equity (Marini, 1971)? Contemporary definitions of social equity start with simple fairness and equal treatment. Others center more on redistribution, focusing on reducing inequalities in society (Brunet & Svara, 2004). According to Borick et al. (2011), social equity entails fairness in the delivery of public services; it is also egalitarianism in action—the

idea that each citizen, regardless of economic resources or personal traits, deserves and has a right to be given equal treatment by the political system.

The social equity approach enjoyed prominence in the late 1960s and early 1970s. Although its prominence has since faded, the questions of fairness and equity that it promoted have never really ceased to exist (Cooper, 2004). As a concept, it is difficult to define and measure and it may never demand as much attention as the managerial pillar of public administration. However, it is an important beacon of accountability in governance (Thompson, 1980). Moreover, it is an important democratic barometer for politicians and public administrators alike. In particular, the social equity approach is an important barometer for the Swallow case.

The social equity approach would strongly emphasize the lack of equity resulting from the role of money in the public election system. As such, this particular approach primarily points to Proposition 2, which centers on the institutional environment. It also touches upon Proposition 1, as the influential role of money and favors affected the priorities and actions of groups and individuals. The Swallow case shows that wealth, and the pursuit thereof for political purposes, ultimately undermines democratic values (Rose-Ackerman, 1999). Such allegiance to wealth touches upon all facets of the case.

The power of money ultimately drove Swallow to act in ways that undermined the public interest, but also created unfair advantages for himself and his supporters. Swallow's willingness to placate Jeremy Johnson's desire to process online poker payments is one of the prime examples of actions that undermined the rule of law. Right around that same time, Swallow reportedly enjoyed access to Johnson's houseboat on Lake Powell (UHR, 2014, pp. 57-58). Swallow and Johnson had a relationship that was

mutually beneficial, revealing “. . . Swallow’s taste for Mr. Johnson’s money, and Mr. Johnson’s desire for the kind of access that would benefit his business interests” (UHR, 2014, p. 6). While both Swallow and Shurtleff benefitted from Johnson’s money and gifts, Johnson used his access to these men “. . . in a clear effort to advance his significant economic interests” (UHR, 2014, p. 6). Again, such exchanges resemble government patronage of the 19th century (see Mackenzie, 2002).

The influence of money further influenced Swallow’s actions regarding the Bells and their loan modification. Even after realizing the conflict of interest, Swallow’s campaign “sought to elicit continued financial support from the Bells while avoiding disclosure requirements that could raise questions about Mr. Swallow’s involvement with them” (UHR, 2014, p. 11). In order to keep such behavior from coming to light, the campaign engineered the submission of false campaign finance reports to the Office of the Lieutenant Governor (UHR, 2014, pp. 11-12). Originally, the Bells reported the full cost of the fundraiser, but, later, the Swallow campaign allegedly contacted the Bells and asked them to change the reported figure. Apparently, the campaign told the Bells that, because Swallow had been assisting them with the loan modification, it would look better if they lowered the original cost reported (D.A. Tanner, interview, March 25, 2015).

The social equity approach would characterize the solicitation and obfuscation of campaign funds from the payday industry as damaging to democratic principles. Swallow and his campaign consultant, Jason Powers, allegedly established a string of not-for-profit and tax-exempt entities that shielded from public view the funds that ultimately benefited Swallow. Regarding the tax-exempt entity, they were able to hide donations given from politically controversial donors because, at the time, Utah law did

not require those entities to report from which they received money. In all, Swallow raised about \$452,000 via the tax-exempt entity and did not report it to the state elections office (UHR, 2014, p. 8). According to the Report:

It is a central tenet of open and fair elections that voters should have available to them information that discloses the sources of a candidates financial support. Indeed the Legislature enacted legislation in 2009 and again in 2012 to assure precisely such transparency in State elections. Whether, in 2012, the voters in Utah wanted to elect an Attorney General who received significant financial support from the payday lending industry should have been a decision made by the voters of Utah armed with full knowledge of the sources from which Mr. Swallow had raised his campaign funds. (UHR, 2014, pp. 9-10)

Regarding the influence of money from special interests in the Swallow case, one interviewee said the following:

. . . there was a ton of money sloshing around in the campaign system—a huge amount of money—and, you know, you look at who was giving the money and it sort of strains credulity to kind of think that they might not be expecting something to be given in return. (J.E. Gladstone, interview, March 31, 2015)

Swallow, thus, unfairly benefitted from the onslaught of payday money because he kept it a secret—the public did not know that he was, to a certain extent, beholden to the payday industry. Furthermore, Swallow allegedly used much of the money to discredit his opponent without the public knowing that he and his campaign were launching the attacks behind the scenes (D.A. Tanner, interview, March 25, 2015).

The prescriptions previously discussed in relation to the public interest approach are compatible with the social equity approach inasmuch as they curb self-interest and bias. After all, the power of money can create bias in the receiver of such gifts (Ariely, 2012). However, the social equity approach would prescribe more aggressive tactics in targeting the structure of a system that allows money to have such great influence. One of the ways this approach would seek to reduce the influence of money is through

campaign limits.

Campaign limits have their origins in the Progressive Movement. In the early 1900s, reform efforts shifted from civil service reform to the regulation of campaign contributions, among other things (Roberts, 2001). Decades later, campaign finance re-emerged in importance as one of the many consequences of the Watergate scandal (Sorauf, 1994). By the early 1980s, many states passed laws limiting the size of campaign contributions and requiring campaign finance disclosure (Roberts, 2001).

In review, Utah state government currently has no limits on campaign contributions, nor does it have limits on corporate contributions to campaigns (Fabrizio et al., 2014). Regarding the idea of campaign limits, one interviewee said the following:

. . . I think that the heart of all of this is money, and I think the fact that you can donate unlimited amounts of money to candidates for state office, really, is maybe the starting point of all of this corruption. (J.T. Katsopolis, interview, March 5, 2015)

According to the Salt Lake Tribune, the glass-half-empty view of the Swallow case is that “. . . (local) lawmakers still refuse to do anything to put limits on campaign contributions, the root of all evil in this and so many other government scandals” (Tribune Editorial Board, 2014, p. A12). Furthermore, a local politician made the following remark after the arrests of Swallow and Shurtleff:

. . . the problem remains. ‘Pay for play’ is still the name of the game, it is the heart of the problem. And nothing has changed. Utah still has no limits on contributions to campaigns. This needs to end. If the arrest of two attorneys general does not motivate such a change—it is hard to understand what will. (Canham, 2014a, p. A5)

Although the Utah Legislature has managed to tighten rules for public officials in receiving gifts, the social equity approach would emphasize that much more can be done (Campbell, 2015; Weist, 2009).

Campaign fund disclosure is an area that has seen progress overtime. In spite of the Legislature's efforts in 2009 and 2012 to make campaign finance more transparent, however, the Swallow case shows that more progress is required to close loopholes (UHR, 2014, pp. 9-10). Learning from the Swallow case, the Utah Legislature did recently pass a law that requires contributors to a 501c4 to disclose contributions (UHR, 2014, p. 83). At the time, the lack of such reporting requirements better allowed the concealment all of the payday contributions.

The social equity perspective supports campaign disclosure because it allows the public to "see where the money is coming from and where the money is going and then they can decide if that's appropriate or not" (D.A. Tanner, interview, March 25, 2015). In fact, some feel that campaign disclosure is a more effective means to ensure equity than campaign limits. Regarding this assertion, one interviewee said the following:

I wish it was that simple, that we put a campaign limit on there and that actually solves the problem. I just think you redirect the flow to some other mechanism. So, what I think you do is provide, as easy as possible, for people to comply with the reporting process, so people can see this is where the money came from, this is where it was spent, and if you think it was too much, or they got too much, then vote them out of office, or don't vote them in office. (D.A. Tanner, interview, March 25, 2015)

Another avenue of reform that the social equity approach could support is publicly financed elections. The theory here is that taxpayer funded elections would provide more equality and less corruption by stripping out donations of wealthy, private citizens and interest groups. While interest group politics is endemic to a democracy, a more corrupt system of campaign finance exacerbates it (Strauss, 1994). For this reason, money from private donations may be more dangerous than partisan elections. Relating this matter to the Swallow case, one interviewee said the following:

. . . you could be a nonpartisan candidate and as long as you've got somebody writing you a \$100,000 check, I mean, that's where the quandary occurred. It was not necessarily the ideology of the persons that are alleged to have given those contributions to the Shurtleff campaign but what was expected from it. (R.A. Donaldson, interview, April 9, 2015)

Another reason for a publicly financed campaign system is to reduce the danger of public officials extorting potential contributors (Nielsen, 2003; Strauss, 1994). Evidence indicates that Swallow was beholden to Richard Rawle and the payday industry (UHR, 2014, p. 6). However, the case also documents coercion of potential contributors. While the extent of coercion is debatable, Swallow allegedly had Jeremy Johnson launder donations to campaigns by giving Johnson's money to separate individuals and then having them give straw donations (D.A. Tanner, interview, March 25, 2015; Gehrke, 2014a). Furthermore, after Johnson had paid the \$250,000 fee for help with the FTC matter (which did not have the desired results), Swallow reportedly requested even more money from Johnson. In late 2011, Swallow met with Johnson and attorney, Travis Marker, to discuss Johnson's case with the FTC. At that meeting, Swallow suggested to Marker that ". . . for an additional \$120,000 fee, he could make Johnson's legal problems go away" (Lindquist & Casper, 2014, p. 3).

The Virtue Approach

Like the previous two approaches, the virtue approach can support rules and policies that seek to limit bias through the restructuring of bureaucracies and campaign finance systems. However, this approach also emphasizes the character of public servants—namely, the individual character traits possessed and the commitment necessary to sustain democratic values—as very important (Kupperman, 1991; Macauley,

2009; Martinez, 2009). In other words, the approach emphasizes cultivating virtue in the public official so that they can exercise political discretion according to appropriate democratic values. Some have questioned the resilience of a virtuous character in holding up against situational and organizational pressures (Buchanan, 2002). While such pressures can certainly influence people's actions, the idea of character still matters and is an important gauge of ethical conduct in the Swallow case (Alzola, 2007; D.A. Tanner, interview, March 25, 2015).

Anderson (1996) defines character as the sum of enduring dispositions—good or bad—that define the individual and are cultivated over a lifetime (p. 5). Character was a contributing factor to corrupt behavior in this case. As one interviewee said “. . . he's [Swallow] just had, for a very long time, this attitude that he can do whatever he wants to try and win an election, you know. He just has this long history of that type of behavior” (J.T. Katsopolis, interview, March 5, 2015). While this dissertation primarily examines the character of Swallow and Shurtleff, their community of friends and associates also deserve scrutiny. Thus, the virtue approach applies most to Proposition 1.

While some approaches point to the Swallow case as a systemic problem, at some point, the question of individual character matters. There are certain local politicians and public servants, in similar circumstances as Swallow and Shurtleff, which generally serve the public interest and perform their duties honestly. In other words, these public servants function in the same institutional and social environments, with the same campaign finance structures, yet they do not indulge in corrupt practices (Pignanelli & Webb, 2014; S.B. Hale, interview, March 20, 2015). Thus, while not the only factor at play, the disposition of character plays a critical role in leading to corrupt behavior.

David K. Hart, in Terry Cooper and Dale Wright's 1992 book *Exemplary Public Administration*, devised a framework that is suitable to assess character for this case. The framework he devised for assessing moral exemplars consists of two subtypes: "moral episodes," which are relatively brief experiences, and "moral processes," which continue over extended periods. Each type of conduct divides into two subtypes: moral episodes into "moral crises" and "moral confrontations," and moral processes into "moral projects" and "moral work." This framework helps in understanding how character is an exemplar of virtue, based on either brief but highly dramatic acts or more routine, often less conspicuous, acts (Cooper & Wright 1992, xiv).

Much of Swallow's documented behavior in the case resembles a process, which encompasses routine acts. His tenure in the OAG was like a moral project, filled with intentional actions taken during a specific period of time (Hart, 1992). In fact, the case documents numerous examples that seriously question the motives and intentions of both attorneys general overtime. One interviewee made the following comment:

You can have a very robust framework of law and policy related to ethical decision making, but there's always discretion and intent, and if somebody does not have good character, then they will always find a way around that framework—which I believe John Swallow did, with intent. (D.J. Thompson, interview, April 14, 2015)

Some notable examples of questionable individual behavior stand out in this case. Shurtleff vacationing in California with a person that the OAG had been prosecuting was improper according to many of his colleagues in the OAG. Moreover, Jenson appeared to pay for many of Shurtleff's expenses in California after having received a lenient plea deal largely orchestrated by Shurtleff (Cassell & Wikstrom, 2014, pp. 14, 25-26).

Swallow willingly courted Johnson as a supporter even after Johnson's business publicly

came under scrutiny for unscrupulous acts. Allegedly, Swallow then gave Johnson tremendous access to government (UHR, 2014, pp. 46, 50-51). From these examples, any amount of virtuous character possessed by Swallow and Shurtleff faded within the context of gaining political favor. In other words, an “agentic shift” likely took place, eroding the personal responsibility of both men (Milgram, 1974).

Many of the routine, conspicuous acts documented in the case stemmed from the friends and associates of both men. Character development derives from communal relations (Preston, 2001). Thus, no person is understandable apart from the larger community in which he or she participates (Bowman & West, 2015). Both Swallow and Shurtleff, as attorneys general, reportedly associated with individuals and businesses that sought to make lots of money with few or no regulations (UHR, 2014, p. 20). Such values and priorities became the values and priorities of Swallow and Shurtleff, even though both were bound to a higher standard as elected, public servants (Hart, 1992). Allegedly using the laundered payday industry money to besmirch the character of Sean Reyes, as well as attack other opponents of the payday industry, reflected the character of that community (UHR, 2014, p. 96).

The virtue approach sees the Bell situation as implicating the character of both attorneys general. In particular, this situation exemplifies both men putting external concerns before the more fundamental, internal practice of interpreting and enforcing laws (Macintyre, 1984). Swallow allegedly succumbed to favoritism by putting a particular donor’s needs over the needs of the larger public. Apparently, he further accepted the Bells money and favors, yet disregarded OAG conflict of interest policies by staying involved in their case. He then, reportedly, negotiated with BOA to modify the

mortgage of the Bells while, simultaneously, suggesting to the bank that the OAG would drop the case on behalf of general homeowners. Furthermore, Swallow's campaign appeared to have altered the amount of money that the Bells had given his campaign (D.A. Tanner, interview, March 25, 2015; UHR, 2014, pp. 109-110).

In the meantime, Shurtleff allegedly dropped the case to cover for Swallow's choices. He may also have sought to secure a future job with a BOA affiliate (UHR, 2014, p 117; Harvey, 2014a). When confronted with a challenge, Swallow and Shurtleff yielded to the external variables of security, money, and reputation (Macintyre, 1984). In turn, they sacrificed their duty of enforcing the law impartially.

The Bell situation illustrates Hart's framework quite well. The Swallow campaign's initial actions towards the Bells represented routine moral processes. The decision to allow the Bells, who were clients of the OAG, to host a fundraiser for Swallow illustrates a disturbingly close connection between private and public interests (UHR, 2014, p. 111). When Swallow and his campaign team realized at the fundraiser that the Bells were clients in an active case, they 'freaked out' (UHR, 2014, p. 109). At this moment, a moral episode confronted them. However, rather than disclose the conflict and seek to remedy it, Swallow remained involved in their case and appeared to cover up the costs of the fundraiser. Shurtleff, in turn, appeared to acquiesce by getting rid of the case once the Bells received their benefits (UHR, 2014, 110, 112, 118).

The morally worthy life develops through daily practice. Thus, daily intentional exercise of virtue enhances the probability of appropriate behavior in times of moral crises and confrontation (Hart, 1992). Another instance of a moral episode that Swallow faced was Jeremy Johnson's threat to expose Swallow's misconduct at the Krispy Kreme

meeting. Being ‘scared to death,’ Swallow responded to that meeting by allegedly fabricating and eliminating evidence rather than doing nothing and risking his chance to become AG (UHR, 2014, p. 13).

Evidence indicates that Swallow fabricated invoices relating to hours when he claimed to work on behalf of Richard Rawle and the Chaparral project (UHR, 2014, p. 13). It further shows that he was not very cooperative with the Committee during the investigation. According to the Report, Swallow eventually admitted, through his attorneys, that “the documents had been created after-the-fact” (UHR, 2014, p.14). Such information was not lightly given up, and the Committee “had to confront Mr. Swallow before he acknowledged that the documents were fakes” (UHR, 2014, p. 14).

What would the virtue approach prescribe to ensure virtuous behavior in public service? It would likely emphasize a comprehensive training and education regimen to enhance the exercise of appropriate political discretion. The idea of, and emphasis on, training is not new in the state and local sectors of government (Hejka-Ekins, 2001). However, the virtue approach would emphasize the need to cultivate moral virtues rather than mere compliance to rules and laws (Denhardt, 1994). The virtue approach would focus on integrity-based components of training, such as moral education and learning from and emulating the examples of others (Lilla, 1981). The latter example speaks to the need of good mentors, which it appeared that Swallow did not have (R.A. Donaldson, interview, April 9, 2015; J.E. Gladstone, interview, March 31, 2015). Thus, a fusion of compliance-based training and integrity-focused education would be necessary to represent a holistic view of laws and ethical values (Lewis, 1991).

In this spirit of learning from the examples of others, the virtue approach might

also emphasize assessing, and learning from, the Swallow case itself. Such an opportunity makes sense by drawing from a local case and then applying it to the local public sector. Personalizing the case and likening it unto individuals, as well as institutional environments, may be more meaningful to those receiving the training. In particular, learning from the Swallow case could emphasize the importance of extolling public values before private values and civic virtue before civic individualism (Luton, 1996; Zuccarello, 1998).

Lastly, in this case, the virtue approach would emphasize the need for citizens to seek potential elected officials who are moral exemplars. Regarding this point, one interviewee expressed hope that citizens would be more aware of the people that they elect to office as “. . . a consequence of the scandal we’ve had” (J.E. Gladstone, interview, March 31, 2015). In particular, the interviewee made the following comment about the work of local journalists concerning the Swallow case:

.... [they] reported on many of these pieces for months, if not years, in advance and it just never put a dent in the armor that these guys [Swallow and Shurtleff] had. Maybe the public now will be more attuned to the people that they elect. (J.E. Gladstone, interview, March 31, 2015)

According to Hart, “public servants have a greater obligation than those in the private sector to be men and women of character, prepared at all times to sacrifice personal gain for the public interest” (Hart, 1992, p. 26). Ideally, citizens should seek candidates with virtuous character traits. Time constraints, lack of education, and power imbalances, however, are likely some of the impediments that present challenges to such a process. The next section provides some clues as to how to overcome such challenges.

Relational Ethics

Relational ethics, as explained in *Whenever Two or More are Gathered*, is the final approach applied to the case. The relational approach is a post-postmodern approach that derives from such areas as discourse theory, pragmatism, organizational theory, and psychoanalytic theory (Harmon & McSwite, 2011, pp. 4, 7, 16). It is critical of modernism's emphasis on human rationality as well as its view of language as universally representational. As a post-postmodern approach, the relational approach does not view the Swallow case from an objective, positivist viewpoint nor does it see it in purely relativistic terms (Harmon & McSwite, 2011, pp. 1-2, 4-5, 54). This approach is an important gauge of the Swallow case because of the critical role that relationships played in the case.

Because of the broadness of the relational approach, it touches upon all propositions established in the previous chapter. Relational ethics acknowledges the need for rules and regulations but does not regard these as sufficient. In fact, it acknowledges that a strict reliance on standard ethics rules could possibly encourage further ethical misconduct (Harmon & McSwite, 2011, p. 54, 121). Instead, this approach places more emphasis on the importance of genuine political discourse, which derives from civil society and the relationships therein (Harmon & McSwite, 2011, 234, 237). Such discourse can enhance and encourage the public official's use of a tempered political discretion. Therefore, the relationship approach likely centers most on Propositions 1 and 3.

Regarding Proposition 2, there were already certain rules and regulations in place pertaining to campaign finance and the bureaucracy of the OAG. One example of such

rules would be campaign disclosure laws (UHR, 2014, p. 9). Such rules and regulations, however, did not prevent allegations of corruption pertaining to the attorneys general. Furthermore, rules are never enough when human interactions and relations encourage deviant behavior. Regarding the inability of rules to deter all misconduct, one interviewee said “. . . I’m convinced that no matter what [lawmakers] do, people will decide whether to be ethical or unethical based on their own morals” (D.A. Tanner, interview, March 25, 2015).

Regarding the Swallow case, the relational approach would emphasize morals learned and practiced through the larger community rather than focus solely on Swallow and Shurtleff (Harmon & McSwite, 2011, pp. 52-53). Such an approach encompasses Proposition 3. Regarding the Bells and the mortgage modification, one can argue that the Bells took advantage of Swallow. For instance, did the Bells not detect any sort of conflict when they volunteered to host a fundraiser for Swallow *after* he had become involved with their mortgage case? Dealing with the needs and wants of friends and associates, those considered to be part of the same “tribe,” can suspend proper judgment.

Drawing upon years of friendship, Richard Rawle apparently used Swallow to advance his own business interests as well as those of the payday industry (UHR, 2014, p. 96). Furthermore, based on previous review of the case, it appeared that Swallow and Jeremy Johnson used each other to advance their own personal and business interests (UHR, 2014, p. 6). These examples illustrate how the concerns of Proposition 3 blend into concerns raised by Proposition 1. It is problematic when public officials and their friends and associates collude to advance their own self-interests above the public interest.

Such examples do not absolve Swallow, and his campaign, of their responsibility to follow rules and maintain the public interest. Swallow appeared to be a willing player in such schemes. Nor do they excuse the alleged actions of Shurtleff. However, they do illustrate the power of trusting relationships to derail judgment and create ethical blind spots. Furthermore, they illustrate powerful influences that derive from the status and priorities of the public official's social circle. As Menzel asserts, the public official works within a "more, not less, complex and dynamic social and organizational environment" (Menzel, 2012, p. 252).

Therefore, the philosophy of the relational approach may question the excessive amount of blame given solely to Swallow and Shurtleff in the aftermath of the case (Harmon & McSwite, pp. 50, 52-53). For example, it may question why there was not more emphasis placed on the hierarchical structure of the OAG and the discourse that it may have discouraged. Alternatively, it may question why there was not more emphasis on the excessive amounts of money required to campaign. As Proposition 2 illustrates, such systemic problems provided the basis for lopsided relationships, which advanced more elite interests over those less powerful. Regarding these matters, one interviewee related the following observation:

This isn't my observation but somebody said to me. . . Mark Shurtleff is an attorney, and attorneys are supposed to be making a lot of money, and he's not making a lot of money. He had all of these hospital bills after he had his motorcycle accident, and he's got this buddy [Johnson] who will fly him around the country if he wants to and will pick up, you know, every check for every meal and every hotel room, whatever he wants, [and] lets him drive his sports car and this and that. . . That's got to be, for a guy who's living a pretty modest existence, I mean, I realize he was making a good salary, but he had a lot of medical bills and a family. . . that can be pretty alluring. (J.E. Gladstone, interview, March 31, 2015)

The over-arching problem that relational ethics would emphasize, in this case, is

the state's dominant ideology and the role that it played in minimizing citizen discourse. The overreach of power that often results in such environments derives from communities where open, political interaction is less frequent (Harmon & McSwite, 2011, p. 111; Richardson, 2013). As a result, relationships typically form only between those who share the same type of beliefs. Such interactions discourage empathic connections between and among larger groups of people (Harmon & McSwite, 2011, p. 236). Furthermore, the influence of LDS culture may discourage dissent within a powerful group (Stevens, 2013). Ethical blind spots then form among those in power because they feel less accountability to all citizens (Bazerman & Tenbrunsel, 2011). One example, in particular, is Swallow's alleged laundering of payday money through non-transparent campaign entities.

The payday industry sought help from a public official who could sympathize with the industry's struggles over federal regulation (UHR, 2014, p. 70). Swallow had a background working in the industry and shared many political views with his friend, Richard Rawle, who was an important figure in the payday industry (UHR, 2014, pp. 63-64). Thus, rather than encouraging open discussion by being transparent with donations from the industry, Swallow and his campaign allegedly hid the donations from public view. Such concealment would have obscured the secret promises that he had made to the payday industry (UHR, 2014, pp. 69-76). With prestige, income, and job security on the line, Swallow appeared to become so intent on winning the election that any sense of ethics he possessed faded (Bazerman & Tenbrunsel, 2011).

The relational approach would further emphasize the ability of Swallow and his associates to set a political agenda. It accomplished its agenda by effectively, if not

unfairly, framing certain issues. The manner in which Swallow and his campaign allegedly targeted Sean Reyes and Brad Daw was an example of creating such a discourse (Schmidt, 2002). Harmon and McSwite would refer to creating such opposition as fighting “evil” with evil (Harmon & McSwite, 2011, p. 121). According to the evidence, Swallow and Jason Powers used extreme tactics to cast Reyes in a negative light. They then repeated such tactics with Daw, who was a target because of his past opposition to the payday industry (UHR, 2014, pp. 91-93, 97).

The problem with such schemes is that negative framing creates absolute terms, which then result in “absolutely self-contradictory actions” (Harmon & McSwite, 2011, p. 121). For example, Swallow, Powers, and their associates, apparently felt threatened by Sean Reyes and Brad Daw. Therefore, they reacted by campaigning in a manner that crossed the boundaries of civility and decorum (Bowman & West, 2015). Staffers for other candidates not involved in the AG’s race made it clear to Swallow campaign staffers that the negative ads were a ‘low blow’ (UHR, 2014, p. 94). While staffers behind the scenes may have recognized the ads as such, the public was less knowledgeable to such contextual information. Instead, ads inundated the public that, in Daw’s case, compared his legislation to that of President Obama (UHR, 2014, p. 97). Thus, the campaign framed information to trigger ideological emotions in a state generally seen as quite conservative.

In terms of solutions, or prescriptions, the relational approach is not very practical. In other words, this approach characterizes unethical behavior as a larger communal problem as opposed to the domain of a single policy or rule. Harmon and McSwite assert that “ethical rules as such hold little or no force except insofar as they

derive from and continue to reflect a community of human relationships in good order” (Harmon & McSwite, 2011, p. 44). The challenge is ensuring that communities of human relationships are in good order in the face of a culture of power. The Swallow case confirms the weakness of this approach, showing that relationships *do* indeed matter but only for serving the purposes of the culture of power.

Certain prescriptions discussed previously—such as nonpartisan elections and limiting the influence of private money in elections—may well concur with the goals of the relational approach. Inasmuch as these prescriptions reduce the influence of a culture of power, they are helpful. Furthermore, the relational approach ultimately acknowledges the need for rules—it only intends to show these in a “broader light” (Harmon & McSwite, 2011, p. 55). Still, Harmon and McSwite argue that no quick fixes, those seeking to induce people to behave in “good” ways, are sufficient (Harmon & McSwite, 2011, p. 216). Instead, the movement to relational ethics will need to be gradual, proceeding “modestly and along a variety of fronts” (Harmon & McSwite, 2011, p. 240).

The relational approach would emphasize gradually building up civil society by cultivating in the general culture an underlying faith in civil relationship (Harmon & McSwite, 2011, p. 240). In so doing, the approach would seek to build up a culture of accountability. Empowering and educating citizens through the establishment of communal governance programs could fulfill such goals. Such programs may be established in partnership with educational or government institutions but would, ultimately, be staffed and directed by the communities themselves. Ideally, the needs of these communities would gradually be met through, largely, their own prescriptions. Furthermore, over time, previously marginalized voices would receive more attention

(Bevir, 2006; Nabatchi, 2012).

Such communal programs would not automatically dissipate a dominant party or prevent the election of someone like John Swallow. However, they would assist in empowering historically underrepresented communities, such as young people and other groups, in general. Eventually, the discourse established would help to ensure that all citizens hold a culture of power to more accountability (John, 2009). Not all demands will be met, but, by enabling more voices to deliberate on policy, relationships can be fostered on more even ground (Fox & Miller, 1995). Thus, by continually encountering specific contexts and personally working through them, ordinary citizens can come to realize ethical expectations for their own communities (Harmon & McSwite, 2011, p. 241).

One avenue of strengthening civil society is through churches. According to Harmon and McSwite, churches are one of the arenas of modern life where relationship forms the core of social process. They argue that churches in every religious denomination can address social issues through collaborative community engagement (Harmon & McSwite, 2011, pp. 218-219). Ironically, this dissertation has argued that the LDS Church has indirectly contributed to a culture of power in Utah. Its influential social networks, close affiliation to the Republican Party, and historically strong business ethic has made its tie to a culture of power possible (Arrington, 1958). Notwithstanding, the Church is capable of building networks across communities that transcend class and ethnic lines (Campbell et al., 2014). In doing so, the power of ideology may weaken.

Over time, there is potential to achieve more partisan balance among LDS church members. As early as 1998, one of the general authorities of the Church said in the Salt

Lake Tribune that it is not in the Church's interest to be a 'one-party' church (Campbell et al., 2014, p. 262). In Utah, potential progress is seen in the Church's recent policy stances—notably on immigration and Salt Lake City's antidiscrimination statute—that align better with the Democrats than Republicans. Because the LDS church relies heavily on volunteerism and proselytizing, it should continue to build on its growing diversity and forge important relationships across civil society (Campbell et al., 2014). A possible result could be that a public official such as John Swallow would be accountable to more than just one type of group, including a wider variety of Mormons.

Just as elected officials and administrators need to more actively nurture citizenship, the relationship approach emphasizes the need for citizens to become more actively involved in governance processes, as well (King & Stivers, 1998). Swallow and Powers allegedly concealed payday industry funds from the public's view. However, one cannot say that the payday industry was not a campaign issue. Swallow and his Democratic opponent, Dee Smith, clashed repeatedly over the ethics of the payday industry. Just weeks before the election, Swallow argued in a debate that payday lenders, if compliant with state regulations, be left in peace (UHR, 2014, p. 102). Such an argument begs the question: Had more citizens been critically engaged in the election process, would more have held Swallow accountable for his defense of what many consider to be a 'predatory' industry (UHR, 2014, pp. 68, 102)? Either way, Hejka-Elkins states that "citizens as well as public officials and public service practitioners need to be involved in an educational process that focuses on the cultivation of civic virtue" (Hejka-Elkins, 2001, p. 100).

Conclusion

The theoretical approaches discussed in this chapter do not represent all ethical approaches. However, those discussed provide context for the institutional and social environments from which the propositions originated. Furthermore, they also provide context for individual behavior. Employing these approaches has allowed further analysis of the case and, thus, has served as an extension to the findings discussed previously in the chapter. In addition to providing different perspectives of the case, these provided insights into potential remedies of misconduct. The potential remedies discussed include nonpartisan elections, bureaucratic restructuring, weakening the influence of money in campaigns, ethics education and training, and strengthening civil society.

Applying the ethical approaches in this chapter illustrates the complexity of corrupt behavior. All of these approaches are able to explain the Swallow case, albeit through a slightly different frame. Such analyses should give pause to any tendency to point to one particular interpretation of the case, or to one particular aspect of corruption. For example, identifying the main problem as the influence of big money in campaigns, while relevant, is shortsighted because a wide range of factors, such as relationships, were also significant. However, ignoring the influence of money in this case is also problematic because money played its part. Thus, applying a variety of approaches is helpful because they force people to think about corruption in less simplistic terms.

This chapter should also give pause to anyone who would point to only one particular remedy. The various prescriptions and recommendations that result from the approaches illustrate the broad terrain from which to reduce public misconduct in

general. Thus, the challenge is to interpret the problem but also conceive of a plan that will sufficiently deal with it. A one-size fits-all solution is not sufficient—a multi-pronged problem calls for a multipronged approach to remedy the problem (Cooper, 2012). Moreover, any plan of action to reduce corruption should vary slightly according to each particular environment. Notwithstanding, as a whole, the prescriptions proposed in this chapter are likely to provide improved policy options for most environments (Roman, 2014).

Cooper (2004) proposes the idea of integrating various theoretical approaches into a “coherent and operational administrative ethic” (p. 399). However, cautious should be the researcher who attempts to fulfill such an idea. It is true that certain theoretical interpretations and prescriptions can blend into each other to a certain extent. For example, the public interest approach cited private bias as a problem in this case. Moreover, the social equity approach also showed how the influence of money could bias the priorities and actions of public officials. Notwithstanding, each theoretical area should, ideally, remain distinct. In a sense, each distinct theoretical approach provides important checks and balances when assessing a corruption case. Unique insights of each approach risk being lost if they hastily blend into one monolithic approach to ethics (see the approaches of Bowman & West, 2015; Dobel, 1999).

Furthermore, to emphasize the importance of distinct theoretical approaches, two interesting but distinct themes emerged from the analysis. Both themes challenge assumptions regarding the Swallow case. Moreover, such themes may not have surfaced had each approach not been discussed and applied to the case distinctly. The sections addressing the public interest and social equity approaches draw upon the ideas and

strategies of Progressivism, as a means to reduce corruption in public service. In particular, the public interest section proposes the idea of instituting nonpartisan elections. Thus, in light of the Swallow case, an interesting question to ask is, Can strategies of Progressivism help to reduce corruption in the 21st century?

Through the Progressive movement, administration became a means to serve and protect the public interest, separating itself from self-seeking political influences (Kettl, 2000). However, progressivism came to be less recognizable by the 1930s (Menzel, 2012). In today's revisionist age—where public entrepreneurship and market privatization are the most celebrated strategies and prescriptions for public corruption control—few other alternatives may be considered (Anechiarico & Jacobs, 1994). However, based on the Swallow case, seeking more professional, apolitical administration may not be such an outdated idea. In a one-party-dominant state, a type of nonpartisan election may help to prevent public corruption derived from partisan, unprofessional governance (R.A. Donaldson, interview, April 9, 2015).

However, one cannot assume that the unprofessional administration that sparked the Progressive movement is of the same dynamic that exists in political circles today. As illustrated through the Swallow campaign's attacks on fellow Republicans, the ideology that pervades certain partisan environments today may be more divisive and vindictive. In other words, adherence to ideology over that of the party may be the most important test of loyalty (UHR, 2014, pp. 93, 95-96). As a result, strategies of Progressivism may still be necessary but not sufficient to reduce public corruption today.

The second interesting theme is the potential of the LDS Church to temper rather than fortify Utah's dominant ideology. This theme emerged from the relationship

approach. Such temperance is achievable through establishing citizen discourse. In turn, such discourse can eventually increase the accountability of political leaders. The challenge, however, is in the tight social networks in which Mormons are bound, particularly those who reside in Utah. Mormons traditionally have a high rate of “bonding” with one another rather than “bridging” to members of other faiths (Campbell, et al., 2014, p, 135).

Church leaders generally do not tell members who to vote for, nor is a party officially endorsed, from the pulpit (Campbell, et al., 2014, p. 78). However, from my own experience, members often exert influence on one another through their social circles, where high levels of interpersonal trust bound social relations (Uslaner & Connolly, 2003). Many Mormons are attracted to candidates and ideologies of the state’s dominant party because they find discomfort in the perception that they are contrary to church leaders, family members, and neighbors. Because many in Utah prioritize the trust of being part of a familiar tribe, legitimate accountability of Republican leaders may be less prioritized (R.A. Donaldson, interview, April 9, 2015).

The most effective remedies to such challenges may be growth in the state population and further diversification in the LDS church. As an institution, the LDS church should seek to build bridges by establishing relationships and commonalities amongst various populations. Such outreach may include putting Mormons in positions to create discourse with underrepresented populations. For example, the LDS church already has programs in place where members minister to the needs of those in prisons or in marginalized communities. The Church should provide an institutional balance to temper tribal tendencies of its own local population of members (Edwards, 2009;

Berman, 1997).

The concluding chapter will further sum up the case and make certain recommendations to reduce public corruption.

CHAPTER 5

CONCLUSION

This chapter proceeds by reviewing the methodological and substantive contributions of this dissertation. In this case, the methodology utilized provides a fuller understanding of the nature of public corruption. Substantively, a culture of power provides public officials with a comfortable ideology, which enables them to engage in corrupt behavior. The chapter then addresses theoretical tension between behavioral ethics and virtue ethics as competing explanations of corrupt behavior in this case. It then briefly reviews the endemic problem of power in a one-party-dominated state. Finally, the remaining sections of this chapter address various recommendations to reduce corrupt behavior for the future. The recommendations discussed derive from the theoretical approaches applied to the case in Chapter 4.

Contributions

In recent years, scholars asserted that more research was necessary in actual corruption cases. In particular, they cited the need to understand the dynamics present within single cases of corruption (De Graaf, 2007). In other words, paying attention to motivational constructs behind corrupt acts and the role of cultural and social

environments is necessary (Roman & Miller, 2014). This dissertation helps fill such voids.

Methodologically, it does so through a qualitative case study that addresses the nature of public corruption in a high-income country, set in a one-party-dominant environment. Furthermore, I draw from a qualitative-interpretive point of view that allows me to utilize my own experiences as a type of evidence (Schwartz-Shea & Yanow, 2012). Such evidence helps to explain actual behavior in this case (Frederickson, 1993). Different theoretical approaches of administrative ethics provide further assessment of the study findings. Such analyses enhance the dynamics of ethical misconduct by emphasizing different themes and aspects of corrupt behavior (Bowman & West, 2015).

As previously discussed, quantitative studies say little about the nature of corruption because they have difficulty capturing the fluidity and contingency of the phenomenon (De Graaf & Huberts, 2008; Doig, 2011). However, the methodological approach utilized for this dissertation generated contextual data that otherwise may not have emerged in a quantitative, positivistic study. For example, the findings reveal a broader understanding of factors enabling corruption—beyond just the lure of money in politics, or immoral public officials (Roman, 2014; Vardi & Weitz, 2004). The Swallow case study reveals the importance of the social environment. Thus, the substantive findings, or contributions, of this dissertation derive directly from the methodological approach utilized.

In particular, some of the more pertinent data generated illustrate the powerful role of relationships. In 2010, Swallow, Shurtleff, and Jeremy Johnson met with Senator Orrin Hatch (R), on behalf of Johnson's problems with the FTC. Swallow testified that

he and Shurtleff were not acting on behalf of the OAG at the meeting but, rather, as ‘friends of Jeremy Johnson’ (UHR, 2014, p. 132). Likewise, Shurtleff’s decision to bring John Swallow into the OAG illustrates the power of relationships. After Swallow’s troubles surfaced in the public, Shurtleff reportedly explained to then-Criminal Division Chief Kirk Torgensen why he had brought Swallow into the OAG. The reasoning was, in part, so that Swallow would keep the OAG Division Chiefs in place once he became Attorney General (Gehrke, 2014b). Archival research and semistructured interviews were crucial in generating such evidence.

Ideology was another substantive factor that emerged from utilizing these methods. Ideology appeared to motivate both Swallow and Shurtleff. Jeremy Johnson’s poker dilemma was a case in point. After attending the meeting with the poker industry representatives, both Swallow and Shurtleff considered how they could justify a legal stance that would be beneficial to the poker industry. One of the political benefits they noted was that such a defiant stand on poker could be consistent with Utah’s conservative view of federalism (UHR, 2014, p. 54). Thus, they drew upon ideology to motivate and justify behavior that could benefit a big donor at the expense of the law.

Utilizing a qualitative-interpretive point of view to understand ideology allowed me to draw upon further evidence that would not have been available otherwise. Being LDS, and having grown up in a more conservative state, gives me insight into the local culture. Such “tacit” knowledge allowed me to recognize the importance of ideology to trusting, loyal relationships (Polanyi, 1966). For example, given the allegations against Jeremy Johnson’s company and its history of questionable practices, one would expect that Swallow would have been more cautious in befriending Johnson (UHR, 2014, pp.

46, 51, 131). Yet my own experience in the local culture allowed me to recognize that trust and loyalty do not just result merely through a person's reputation. Rather, in relationships, a shared feeling of ideology fuels that trust and loyalty.

Ideology comes not only from shared commonalities, such as place of origin, but through various contextual influences of the social environment. To an outsider, it may have seemed imprudent for Swallow and Shurtleff to bring Jeremy Johnson into their social circle. However, Johnson's personal beliefs, likeability, and success as a businessperson may have been just as important to the attorneys general as his ability to give money. Johnson likely represented the best of what they strived for, being a successful, well-liked businessperson, who was highly favored in the community (Singer, 2013). Such knowledge would not have been possible without a more interpretive methodology to draw from.

The theoretical approaches utilized enhance the dynamics of the case. For example, the public interest approach may call for a positivist view of Swallow's misconduct. However, the relationship approach may call for a more interpretive view. Different theoretical perspectives of the case shed light on slightly different angles of corrupt behavior. Thus, the challenge of power to ethical conduct—discussed in Chapter 1—eventually became manifested as private interest bias, the influence of money in politics, lack of virtuous behavior of public officials, and lack of citizen discourse regarding the ideology of governance. Ultimately, the theoretical approaches allowed more understanding of corruption, with more options of reducing it.

Lastly, to reiterate, the importance of relationships and ideology in this case are significant findings. To put these in perspective, and to further sum up the substantive

contributions, the behavior of Swallow and Shurtleff is of the utmost importance. According to the evidence, their behavior in public office lacked a commitment to virtue (J.T. Katsopolis, interview, March 5, 2015). Actions that led to an increased status for themselves and their associates took precedence over fulfilling the public interest (UHR, 2014, pp. 4, 12). Yet, in looking beyond the surface, a culture of power enabled their behavior and priorities in office. An ideology fortified by religious and political values likely motivated them as well as blinded them to the audacity of their behavior (Cassell & Wikstrom, 2014, pp. 26-27; R.A. Donaldson, interview, April 9, 2015; *Third Judicial*, 2013b, p. 206, 209). Thus, shared ideology through relationships bolstered and encouraged their alleged corruption.

Virtue Ethics Versus Behavioral Ethics

The case findings discussed and analyzed in Chapter 4 draw upon both virtue and behavioral ethics to explain corrupt behavior. Such discussion generates the following questions: Which explanations are more important? Furthermore, are both explanations of corruption somehow related? The brief discussion that ensues assesses the relevance of both. While behavioral ethics certainly applies to this case, virtuous character matters in the end.

As an alternative to traditional ethical approaches, behavioral ethics has gained legitimacy in recent years. Behavioral ethics encompasses such terms as bounded ethicality, ethical fading, and ethical blind spots (Bowman & West, 2015). These concepts suggest that people are far less rational than originally assumed (Chugh, Bazerman, & Banaji, 2005). Milgram's shock experiment and Zimbardo's prison

experiment illustrated that, in stressful situations, human beings may react to situational circumstances instead of to a rational, moral compass (Cooper, 2004; Milgram, 1974). Building upon such evidence, modern-day scholars have raised further doubts concerning the legitimacy of personal character in ethics. For example, some scholars attribute individual behavior more so to situational circumstances than to a person's actual character (Buchanan, 2002; Harman 2003).

Under the guise of behavioral ethics, John Swallow may not be a public official lacking in character. Rather, he may be one that made poor decisions under pressures to be responsive to friends. In other words, an awkward position entrapped Swallow when the Bells volunteered to host a fundraiser for him at their home. In knowing that they would likely expect something in return, it is possible that he felt obligated to deliver a favorable outcome to them in the mortgage case—even if it meant compromising the position of other Utah homeowners (UHR, 2014, p. 115). Behavioral ethics may further characterize Swallow as being generous to a fault with friends. An example of such behavior applies to when he sought to coach Johnson on how he should lobby his business needs to Harry Reid's associate (*Third Judicial*, 2013b, p. 239). Dealing with friends in such situations tends to create blind spots concerning the ethics of the matter (Bazerman & Tensbrunsel, 2011).

While psychologically based influences may be relevant to the Swallow case, they do not completely absolve Swallow of personal responsibility. Swallow's character came into question when he allegedly requested an additional \$120,000 to solve Johnson's legal problems, after all other options to deal with the FTC had been exhausted (Lindquist & Casper, 2014). His character came into question when he allegedly

fabricated false documentation to purport working certain hours for Richard Rawle that he could not have possibly worked (D.J. Thompson, interview, April 14, 2015).

Furthermore, his character came into question when his campaign requested that the Bells change the amount of money recorded for the fundraiser to a lower number (D.A. Tanner, interview, March 25, 2015). While human beings may be “morally weak” in certain situations, and these moments can be important determinants of behavior, “. . . character traits exist and make a difference” (Alzola, 2007, pp. 353-354).

A virtuous character does not depend solely on the contextual situation. An individual may respond to his or her local context by adapting to the local norms or by transcending the local norms because of that person’s personal character (Bright, Stansbury, Alzola, & Stavros, 2011). John Swallow seemed to adapt to situations and environmental norms, specifically through relationships, ideology, and the need to win an election. These things drove him and compensated for a lack of commitment to virtue (Kupperman, 1991). As Hart would argue, evidence portrayed a questionable personal character molded through routine as well as dramatic decisions (D.J. Thompson, interview, April 14, 2015; UHR, 2014, pp. 20, 96, 110-112).

The strength of one’s character likely determines the extent to which one may succumb to situational circumstances. Any sharp theoretical divisions distinguishing character from behavioral ethics may be a false dichotomy. For example, phenomena such as overconfidence and self-serving bias often describe behavior associated with behavioral ethics (Bowman & West, 2015). However, these phenomena could also describe tendencies pertaining to personal character. Could these, in excess, describe character flaws? Virtue ethics and behavioral ethics, though distinct, may be more related

than some think. One interviewee said the following regarding the personal integrity of public officials:

It's a balance between characteristics or, at the core, being an ethical person and being situated in an environment which will either reinforce that or push you to exceed those boundaries. (R.A. Donaldson, interview, April 9, 2015)

Studying these areas via a continuum rather than a dichotomy may be best.

One-Party-Dominant States and Power

Centralized power tends to corrupt and is not often accountable (Del Beccaro, 2014). A one-party-dominant state facilitates a culture that is less accountable to all citizens (Campbell, 2015; Davey, 2012). In this case, ideology and private values fueled such a culture and diffused it through relationships. The Swallow case is particularly striking in showing just how pernicious ideology can be. It was not just a matter of simple partisan politics, Republicans versus Democrats. As illustrated through the attacks on fellow Republicans, the case exemplified the manner by which power transforms opponents into enemies (Dobel, 1999; UHR, 2014, pp. 68, 97).

Utah's Republican Party has benefited from the LDS church's influence (Campbell et al., 2014; Davidson & Canham, 2015). However, while Republicans may not be on the verge of losing power in the short term, Utah is growing quickly (Richardson, 2013; Semerad, 2015). Many newcomers to the state are likely to bring their own ideas and demand accountability for their needs and demands. Just as public officials will need to be aware of these, the LDS Church will need to build further bridges to those outside of its circle. As it becomes more of a global church (but, perhaps, loses the influence that it has known in Utah), it should use its social networks and

organizational capacity to develop new relationships. Such relationships create dialogue, which helps to strengthen accountability (Harmon & McSwite, 2011). Thus, expectations of public ethics may advance beyond those based on socialization only and become more critically demanding (Cooper, 201).

Recommendations

By enhancing understanding of corrupt behavior, potential options become available to increase accountability and, thus, reduce corruption (Haller & Shore, 2005). In this case, the recommendations stem from Utah's political environment. Removing partisanship from the selection of the attorney general and enacting structural adjustments in the OAG should both provide ideal mechanisms to keep political discretion in check (see Finer, 1941). If the AG position continued to be subject to election, nonpartisan or otherwise, campaign limits would be necessary. Furthermore, both comprehensive training programs in government and public initiatives designed to strengthen civil society should direct the political discretion of public officials towards democratic values (Adams & Balfour, 1998). As the first lesson from the Swallow case, elected officials need to be accountable to *all* citizens.

Remove Partisanship from the Attorney General Election

Issues of partisanship and unprofessional administration, which led to the Progressive movement, are still relevant today. This is particularly the case for a one-party-dominant environment. Therefore, Chapter 4 discusses the possibility of instituting a nonpartisan election of the Attorney General of Utah. However, such a move would

not be without controversy or risk. For example, regarding controversy, one interviewee said “. . . it’s okay to be partisan and have the top official reflect the basic political beliefs of whomever elects them to be their candidate” (D.A. Tanner, interview, March 25, 2015). In terms of risk, recent evidence shows that nonpartisan elections are ineffective at removing the partisan element from elections (Bonneau & Cann, 2015).

There are two reasons why the election for attorney general should not continue as a partisan election in Utah. As discussed previously in Chapter 4, attorneys should not be making policy decisions that have partisan implications (S.B. Hale, interview, March 20, 2015). Regarding the partisan election of the AG, one interviewee said:

It, I think, creates an opportunity for bias to creep in, a partisan bias, and I think that is a negative. It’s certainly appropriate on a policy level. . . [but]. . . you don’t want lawyers making policy decisions. Lawyers are advisors, they are not decision makers. The AG does have opportunities to make certain decisions, prosecutorial discretion, but, again, you want that driven by objective factors, not by partisan factors. (S.B. Hale, interview, March 20, 2015)

Second, although reflecting the electorate’s political preference in a candidate can be desirable, The Republican Party heavily influences Utah’s partisan environment (D.J. Thompson, interview, April 14, 2015). Therefore, it is too easy for many citizens to minimize the cost of informing themselves by using the party label as a voting cue. Candidates’ qualifications and platforms then become irrelevant (Squire & Smith, 1988).

In reality, evidence regarding the effectiveness of nonpartisan elections appears mixed. Some researchers have found that voters in nonpartisan elections do tend to vote less along party lines, focusing instead on other cues such as incumbency, ethnicity, or ballot position (Schaffner, Streb, & Wright, 2007). Even if nonpartisan elections fail to remove the partisan element, they may be successful in tempering it (Schaffner, Streb, & Wright, 2007). Tempering the partisan advantage can provide more evenness in

representation. If nothing more, nonpartisan elections in partisan environments convey the important symbolic message of professionalism over partisanship (Anechiarico & Jacobs, 1994).

Still, evidence that discredits the effectiveness of nonpartisan elections is too important to ignore. Furthermore, based on Utah's homogenous population and strong affiliation to the Republican Party, de-politicizing the election in this environment may not be enough to temper partisanship (Bonneau & Cann, 2015; J.E. Gladstone, interview, March 31, 2015). A more effective option may be to have the AG appointed to the position, with a fixed term (J.E. Gladstone, interview, March 31, 2015; J.T. Katsopolis, interview, March 5, 2015). Such a mechanism has the potential to remove the partisan element from the population. The potential is particularly promising if a nonpolitical figure, such as the state bar association, were to make the selection of attorney general.

Appointing the attorney general would likely be the ideal option to deal with partisanship. However, in Utah, a local senator introduced this idea in the 2014 legislative session, and the idea got little support. Certain critics argue that the appointment of the attorney general would only transfer the partisan pressures rather than eliminate them. Furthermore, they argue that voters lose the ability to vote an attorney general out of office (Gehrke, 2014d).

Enact Campaign Contribution Limits

If the attorney general is not an appointment but remains subject to an election, then campaign finance needs to become a priority. To review, campaign finance is another area of reform that originated during the Progressive movement (Roberts, 2001).

This area, however, is complicated and does not easily lend itself to many definite solutions (Strauss, 1994). In fact, the Swallow case illustrates how difficult it is to ensure fair and transparent financing of campaigns.

The Utah Legislature previously passed laws to address campaign finance disclosure. However, Swallow and his campaign still, allegedly, hid hundreds of thousands of dollars' worth of donations (UHR, 2014, pp. 8-9). Furthermore, they allegedly had the Bells change the original figure of donations spent on the disclosure forms to a lower amount (UHR, 2014, pp. 119-121). While disclosure is important, relying on such a mechanism alone is insufficient. More mechanisms are necessary in a partisan environment where elections are not always competitive, and the electorate does not inform itself (Rose-Ackerman, 1999).

A comprehensive reform that institutes publicly financed elections may represent the ideal. Such a reform would significantly cut out the influence of private money in public elections (R.A. Donaldson, interview, April 9, 2015). However, it may be difficult to find the political will to implement such a system in a one party dominant environment. Concerns about the tax burden of publicly financed elections as well as that of free speech would likely be major impediments (Jones, 2008; Strauss, 1994). Nevertheless, in small steps, efforts made can limit the influence of money in politics.

Utah should continue to make campaign finance disclosure a priority. Because of the Swallow controversy, in 2014, the Utah Legislature made significant reforms in campaign finance reporting and conflict of interest reporting. It also made the effort in 2013 to strengthen reporting for corporations and nonprofit entities (Gehrke, 2014d; *Utah State*, n.d.a). However, campaign-spending limits need to be a priority. Such limits have

not always received positive feedback, and it is possible that limits are not effective in every environment (Smith, 2006). Nevertheless, in the partisan environment that surrounds Utah, restrictions that are more direct are necessary in order to temper politicians favoring large contributors (Rose-Ackerman, 1999).

Another reason for limits, along with an emphasis on disclosure, is to build voter confidence. Voter confidence grows by minimizing the influence of large contributions to politicians, encouraging candidates to reach out to the public at large for support, rather than just large contributors, further strengthens voter confidence (Jones, 2008). Moreover, local polls show that Utahans are in favor of some campaign finance regulation (Crippes, 2015). In Utah, enacting such campaign limits would symbolically send the message to voters, and to those running for office, that wealthy interests are not above those of common interests.

Campaign limits do not provide a surety that candidates will not solicit funds secretly, or direct their flow to nontransparent sources, as the Swallow case showed (J.E. Gladstone, interview, March 31, 2015; D.A. Tanner, interview, March 25, 2015). For this reason, limits should not be too stringent to encourage illegality (Bowman & West, 2015; Rose-Ackerman, 1999). Furthermore, as the Swallow case showed, there are many opportunities for the subtle use of wealth to gain influence—such as using vacation homes or the giving of certain gifts (Strauss, 1994). Lawmakers, thus, must continue to strengthen laws regarding financial disclosure, conflict of interest, and the provision of gifts. These laws must be enforceable consistently, and loopholes should be detected and addressed where necessary (Gehrke, 2014d; Rose-Ackerman, 1999).

Two additional lessons stand out from the Swallow case. First, private interests

must not supersede the public interest. While politics requires responsiveness, public officials must learn to draw a distinct line between private wants and needs and the public interest (Dobel, 1999; Sabl, 2002). In this case, private interests include wants and needs that derive from entrenched cultural influences. Second, there is a need to create more open, interactive institutional environments where people can work out issues with each other and their leaders. Such environments can foster an interactive accountability. A greater emphasis on training, citizenship, and institutional structure can help bring such lessons to fruition.

Emphasize an Integrative Approach to Training

According to the ethics.utah.gov website, ethics training is required for state legislators yearly. Such online training consists of exercises and scenarios that center on general ethics training, campaign finance training, and lobbyist disclosure and regulation training (*Ethics Utah*, n.d.). Such information and training exercises are helpful and necessary. However, two potential problems become evident from the website. First, it appears that only legislators are required to undergo any sort of formal training. It would appear that neither executive branch officials nor officials in any political subdivision in the state are required to undergo such training (even though ethics commissions exist in those distinct areas). Second, the training available for legislators, though informative, appears to center only on compliance (*Ethics Utah*, n.d.).

Such lack of training further reflects the observation that very few, if any, bills passed from 2008 through 2015 dealt with ethics training. In the immediate aftermath of the Swallow controversy in 2014, only legislation pertaining to financial and conflict of

interest disclosure passed (*Utah State*, n.d.a). Even if state employees receive instruction on ethics in their respective agencies, such evidence reveals a lack of emphasis on ethics education and training. While compliance training is important, it focuses mainly on the law. Such a narrow focus underemphasizes the role of moral exemplars, and moral reasoning. In short, it reduces ethics to a question of mere do's and don'ts (Lewis, 1991).

Ethics training is an important factor in building a strong organizational culture (West & Berman, 2004). It should be integrative, focusing on compliance as well as on fostering a democratic ethos in the organization. Such an approach encompasses the relationships of the group, rather than the individual only (Truelson, 1991). All managers and leaders of all state agencies should prioritize ongoing training. Moreover, daily practices should emphasize honest behavior by employees, encourage employee openness, and promote organizational and individual loyalty to the public interest (Feldheim & Weng, 2004). Managers must learn to avoid sacrificing the notion of doing the right thing by trying to satisfy too many people, or by trying to bring about a certain desirable outcome (Menzel, 2012). The Swallow case illustrates such utilitarianism in action, undermining an ethos of organizational equality in the OAG.

Finally, training for public servants, administrative managers, and leaders in particular, should address bias. According to Bazerman and Tensbrunsel (2011), unrecognized psychological forces that come into play during decision making must be a point of emphasis. Research in the health care industry reveals that doctors, nurses and other health workers may unintentionally treat patients differently based on race. In other words, many health care workers harbor stereotypes of which they are consciously unaware. Because unconscious bias often surfaces when professionals are stressfully

multitasking, some medical schools are now formally training students to be a bit more reflective—or, alert to their own prejudices (Dembrosky, 2015). Government should adopt similar training methods and regiments. Per Proposition 3 of the Swallow case, training should address biases that emanate from shared cultural assumptions and expectations as well as relationships.

Cultivate a Dialogue on the Meaning of Citizenship

Developing the ethos of citizenship should be another priority in organizations and institutions. Both the virtue and relationship approaches emphasize the need to build administrative ethics around a citizen centered discourse. Such an approach is necessary for government to understand the needs of citizens, closing gaps between government theories and effective governance. Democracy serves communities when government personnel engage local citizens and draw upon their local expertise of the environment (Stich & Miller, 2011; Stivers, 2011). Furthermore, all citizens must be encouraged to participate with government in working through their own governance issues and concerns. Confronting different opinions may be difficult for many citizens to do. However, learning to do so is necessary in order to encourage a culture of civic education rather than a culture of individualism (Hejka-Elkins, 2001; Zuccarello, 1998).

The idea of fostering citizenship is not necessarily new. Various initiatives and programs that aim to involve citizens have already begun to take place among certain governments, nonprofits, and citizens (see Alexander & Nank, 2009). However, the need to involve all citizens in governance is very important in a one-party-dominated state (J.T. Katsopolis, personal communication, March 5, 2015). Furthermore, in light of

Swallow's controversy, building trust among citizens from all parties and viewpoints is crucial (S.B. Hale, personal communication, March 20, 2015). To the Utah Legislature's credit, in 2011 and 2015, two bills passed that establish civic and character education initiatives (*Utah*, n.d.a). Such bills are a start to emphasizing the need for civic education.

Restructure and Enforce Institutional Controls

Discussions concerning training and education should not ignore institutional structure. The structure of an organization can affect an individual's ethical behavior (Cooper, 1998). For this reason, the potential OAG reforms offered in Chapter 4—creating more interaction between and among lawyers on cases, and instituting an internal structure to report and investigate problems—should garner serious consideration for implementation (S.B. Hale, personal communication, March 20, 2015). In the case of the OAG, more interaction among attorneys provides opportunities for more discourse. Between that reform and creating an independent entity to which to report problems, accountability becomes more difficult to ignore.

In June 2015, the Salt Lake Tribune reported certain shortcomings identified in the OAG by the Utah Legislative Auditor General. Chief among those was a lack of proper whistleblower protections for those in the office. In response, Attorney General Sean Reyes stated that the OAG was seeking to designate an officer, independent of management, who would receive and investigate complaints (Gehrke, 2015g). In spite of having Swallow as an example of what not to do, consistent reliance on, and enforcement of, institutional controls is necessary. Otherwise, ethics education and training is of little

value (S.B. Hale, personal communication, March 20, 2015; Hejka-Ekins, 2001).

Final Thoughts

In conclusion, reducing corrupt behavior by instituting a single, simplistic solution ignores the complexity of the nature of corruption. Rather, numerous solutions—ones that encompass wider organizational, legal, and social contexts—are more appropriate for dealing with corrupt behavior (Cooper, 2012). Minimizing partisanship in selecting the attorney general and/or enacting campaign finance reforms would play important roles in such a process. However, while important, these reforms are only part of the process (Menzel, 2009). Cultivating citizenship through citizen-government exchanges and instituting comprehensive training programs for all public officials are better suited for building a culture of accountability (Cooper, 2012).

Reducing the influence of a culture of power generally does not involve quick, easy fixes. For example, implementing an integrative training approach is traditionally more difficult than a compliance-only approach (Hejka-Elkins, 2001). The recommendations discussed here all require significant time and resources to bring to pass. In a sense, all are longer-term solutions to reducing public corruption. Furthermore, mustering enough political will to enact such reforms may be the biggest obstacle of all (Bowman & West, 2015). However, in order to strengthen public service in the years to come, public administrators and politicians must prioritize long-term ethical governance now.

APPENDIX

INTERVIEW QUESTIONS

1-Would you describe for me what you know about John Swallow's controversy as Attorney General?

2-In your opinion, what is the public interest?

- a. Please describe for me the type of governance/behavior that leads to and sustains the public interest?

3-Do you believe that ethical governance depends on the character traits of men and women who enter politics? Can you explain or elaborate?

4-Do you believe that prioritizing social equity in governance leads to more ethical governance? Social equity is defined here as basic fairness in the political system.

5-As you know, the AG's office is a politically elected office in Utah. Do you think that the election should be nonpartisan or remain partisan? Are there other methods of AG selection that you support? Can you explain or elaborate?

6-Do you believe that partisan election of the Attorney General is a contributing factor in ethics violations? (partisan pressures overcoming the AG?) Can you explain or elaborate?

7-It has been documented that a "pay-for-play" culture existed during Swallow's tenure in the AG's office. Do you believe that such a characterization is accurate? Can you

explain?

8-If such a culture was to exist in an AG office, in what ways could such a culture be overcome? Any reforms that you support?

9-Some assert that rules alone are not enough to ensure ethical governance. Do you agree or disagree?

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